

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION NO. 01-CV-12257-PBS
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THIS DOCUMENT RELATES TO)	Hon. Patti B. Saris
ALL ACTIONS)	
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**PLAINTIFFS' OBJECTIONS AND COUNTER DESIGNATIONS TO TRACK 1
DEFENDANTS' JOINT AMENDED
OFFERING DEPOSITION DESIGNATIONS**

The Track 1 Defendants hereby present their joint offering designations of the following depositions (highlighted in blue) and the Plaintiffs' objections and counter-designations (highlighted in pink). As Blue Cross Blue Shield of Massachusetts and other third-party payors are continuing to produce witnesses for deposition, the Track 1 Defendants reserve their right to supplement these offering designations with additional witnesses and testimony.

1. Theresa Jernigan, Sheet Metal Workers

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 13, 2006 Transcript: 7:6-9	
Track 1 Defendants	12:6-15:11	
Track 1 Defendants	17:2-6	<u>Objections.</u> FRE 403.
Track 1 Defendants	19:7-9	<u>Objections.</u> FRE 403.
Track 1 Defendants	19:14-20:9	<u>Objections.</u> FRE 403.
Track 1 Defendants	26:7-27:1	<u>Objections.</u> FRE 403 <u>Counter-designations.</u> Jernigan, at 27:2-6.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	39:10-40:4	
Track 1 Defendants	60:3-11	
Track 1 Defendants	61:5-6	
Track 1 Defendants	61:14-19	
Track 1 Defendants	63:22-64:15	
Track 1 Defendants	66:14-67:7	
Track 1 Defendants	98:6-10	
Track 1 Defendants	99:5-9	

2. Lisa Gorman, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	March 7, 2006 Transcript: 8:14-16	
Track 1 Defendants	30:17-50:13	<u>Objection:</u> Lack of Foundation (40:5-12); Speculation, Lack of Foundation (40:22-41:6); Assumes Facts Not in Evidence, Speculation (44:4-12)
Track 1 Defendants	59:18-61:17	
Track 1 Defendants	63:4-73:8	<u>Objection:</u> Speculation, Lack of Foundation (70:3-73:8) <u>Counter Designation:</u> 74:14-75:10

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	75:12-83:2	<u>Objection:</u> Mischaracterizes Prior Testimony (78:4-10); Speculation, Lack of Foundation (79:8-12; 79:15-18)
Track 1 Defendants	90:17-93:19	
Track 1 Defendants	106:1-21	
Track 1 Defendants	109:20-121:11	<u>Objection:</u> Lack of Foundation, Speculation (111:13-17)
Track 1 Defendants	125:15-129:14	
Track 1 Defendants	142:13-143:22	
Track 1 Defendants	146:15-22	<u>Counter Designation:</u> 144:18-146:14

3. Maureen Coneys, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as its hearsay and not within any hearsay exception provided by the fed rules of evidence or rule 32. The witness is not an officer, director or 30b6 designee under FRE 32.
Track 1 Defendants	April 12, 2006 Transcript: 8:11-21	
Track 1 Defendants	9:15-11:14	
Track 1 Defendants	17:7-18:7	<u>Objection:</u> Relevance, FRE 403, Lack of Foundation (17:7-14). <u>Counter Designation:</u> 18:8-12
Track 1 Defendants	19:4-8	<u>Objection:</u> Relevance, FRE 403, Lack of Foundation (19:4-8).
Track 1 Defendants	36:5-10	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	36:14-37:1	<u>Counter Designation:</u> 37:2-16
Track 1 Defendants	37:17-19	
Track 1 Defendants	39:9-16	
Track 1 Defendants	40:17-19	
Track 1 Defendants	42:14-43:13	
Track 1 Defendants	43:18-20	<u>Counter Designation:</u> 43:14-17
Track 1 Defendants	44:9-45:5	
Track 1 Defendants	46:2-47:8	<u>Counter Designation:</u> 45:6-46:1
Track 1 Defendants	47:14-16	
Track 1 Defendants	50:14-51:13	
Track 1 Defendants	62:1-11	
Track 1 Defendants	64:3-12	
Track 1 Defendants	65:11-75:19	<u>Objection:</u> Relevance, FRE 401 (65:11-73:20). Vague and Ambiguous (71:8-10). Lack of Foundation, Leading (71:12-17). Compound Question, Vague and Ambiguous (72:5-16).
Track 1 Defendants	77:6-78:5	
Track 1 Defendants	79:14-80:8	<u>Objection:</u> Relevance, FRE 401.
Track 1 Defendants	94:17-19	
Track 1 Defendants	98:5-11	
Track 1 Defendants	107:19-109:8	<u>Objection:</u> Relevance, FRE 401. Vague and Ambiguous (108:3-9).
Track 1 Defendants	121:11-122:6	
Track 1 Defendants	126:17-128:6	
Track 1 Defendants	133:2-134:6	<u>Objection:</u> Document Speaks for Itself (133:10-134:6).
Track 1 Defendants	138:9-139:21	<u>Objection:</u> Beyond the Scope of

Offering Party	Designation Range	Objection/Counter Designation
		Deposition – Witness Not Designated on Specialty Pharmacies (138:16-139:2)

4. Vincent Plourde, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not an officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	April 13, 2006 Transcript: 7:2-7	
Track 1 Defendants	11:15-12:16	
Track 1 Defendants	14:17-19	
Track 1 Defendants	33:9-38:11	
Track 1 Defendants	53:7-54:2	
Track 1 Defendants	59:17-61:15	<u>Objection:</u> No question specified. Renders designation vague, ambiguous and potentially misleading. <u>Objection:</u> FRE 602. No personal knowledge. <u>Counter Designation:</u> 41:7-19
Track 1 Defendants	93:11-99:6	
Track 1 Defendants	116:5-118:1	
Track 1 Defendants	119:9-16	<u>Objection:</u> FRE 602. No personal knowledge. <u>Objection:</u> Vague, ambiguous. <u>Counter Designation:</u> 119:17-

Offering Party	Designation Range	Objection/Counter Designation
		120:13
Track 1 Defendants	127:17-128:2	Objection: Vague. Ambiguous reference to "those discussions."

5. Robert Jackson, Jr., Aetna

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> General objection – FRE 402 – Aetna is irrelevant to the case and a majority of the testimony concerns pharmacies.
Track 1 Defendants	January 7, 2005 Transcript: 8:1-9:4	
Track 1 Defendants	19:19-22:6	
Track 1 Defendants	40:2-13	<u>Objection:</u> Leading question. FRE 106 (incomplete testimony, as the deponent then testifies that he is not involved in contracting whatsoever); Speculative (the question at 40:9-12 asks whether something "could" be the case).
Track 1 Defendants	72:1-73:18	<u>Objection:</u> FRE 402 Relevance (discusses pharmacists and reimbursement rates in service contracts with pharmacies and his answer is limited to "currently," and the deposition was in 2005); FRE 602 (the witness lacks adequate foundation, as his answer is based on conversations with others, not personal knowledge); and FRE 802 hearsay (learned about what pharmacists pay through discussions with some) <u>Counter Designation:</u> 122:2-124:22; 188:8-190:12; 204:18-21

Track 1 Defendants	138:4-139:10	<u>Objection:</u> Mischaracterizes Witnesses' Testimony at 138:19-139:10; Vague and Compound question at 138:4-8; FRE 602 (lack of foundation - 138:8 (witness's testimony is based on his understanding, not personal knowledge)). <u>Counter Designation:</u> 140:14-141:12; 150:3-153:17
Track 1 Defendants	153:21-154:7	Objection: FRE 602 (lack of foundation to testify to the reimbursement history of Physician-Administered drugs); compound and vague question. <u>Counter Designation:</u> 154:8-155:10

6. Susan Johnson, Aetna

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 16, 2005 Transcript: 5:8-14:1	
Track 1 Defendants	34:4-37:4	<u>Objection:</u> (36:11-17) compound question.
Track 1 Defendants	50:3-53:20	<u>Objection:</u> FRE 402 – Testimony does not relate to a party or product at issue in this litigation.
Track 1 Defendants	82:16-87:16	<u>Counter Designation:</u> 126:14-127:3.
Track 1 Defendants	91:10-92:14	<u>Objection:</u> FRE 402 – No reference to time, defendant or drug in the case.

7. Joseph Spahn, Anthem Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	November 30, 2004 Transcript: 8:7-12	
Track 1 Defendants	14:5-25:14	
Track 1 Defendants	54:10-55:6	<u>Objection:</u> Leading questions at 54:10-55:5; FRE 106 (incomplete excerpt of testimony on this topic). <u>Counter Designation:</u> 53:6-54:9, 59:17-63:15
Track 1 Defendants	58:12-59:16	<u>Objection:</u> Vague and compound question at 58:12-59:3; FRE 601 (lack of foundation – witness has testified that he doesn't know the information being sought). <u>Counter Designation:</u> 59:17-63:15
Track 1 Defendants	63:16-64:6	
Track 1 Defendants	65:5-66:11	<u>Objection:</u> FRE 602 (foundation), Question at 66:6-10 calls for speculation. <u>Counter Designation:</u> 68:17-72:4; 75:4-76:10, 55:15-58:11
Track 1 Defendants	82:17-83:20	<u>Objection:</u> Questions at 82:17-19 and 83:4-6 are vague; leading question at 83:16-19; questions call for speculation; FRE 106 (incomplete designation of entire testimony on this issue). <u>Counter Designation:</u> 83:21-85:10
Track 1 Defendants	90:2-19	<u>Objection:</u> FRE 402 (Relevance), FRE 602 (foundation – immediately prior to this designated testimony Mr. Spahn only)

Offering Party	Designation Range	Objection/Counter Designation
		learns this from others in meetings, he doesn't know this through personal knowledge); Calls for speculation. <u>Counter Designation:</u> 88:9-90:1
Track 1 Defendants	91:16-92:6	<u>Objection:</u> FRE 402 (Relevance), Leading questions.
Track 1 Defendants	93:11-95:5	<u>Objection:</u> FRE 402 (Relevance), FRE 106 (incomplete designation); leading questions throughout designated section; FRE 602 and vague (no foundation laid, and does not specify what kinds of drugs or services he is questioning about). <u>Counter Designation:</u> 93:6-10
Track 1 Defendants	97:17-98:13	<u>Objection:</u> FRE 402 (Relevance), Leading questions; calls for speculation; answer to question is speculative; no foundation; vague (does not specify what types of providers or drugs he is referring to).
Track 1 Defendants	104:17-106:1	<u>Objection:</u> FRE 402 (relevance); FRE 802; assumes facts not in evidence (designated the identification of an exhibit that has not been designated as an exhibit by defendants). <u>Counter Designation:</u> 107:1-14
Track 1 Defendants	106:18-106:22	<u>Objection:</u> FRE 402 (Relevance), FRE 106 (incomplete designation).

Offering Party	Designation Range	Objection/Counter Designation
		<u>Counter Designation:</u> 106:2-17
Track 1 Defendants	107:15-109:22	<u>Objection:</u> FRE 402 (Relevance), Foundation; leading questions at 108:8-108:12, 109:12-16, 109:18-109:21; Rule 106 (incomplete testimony). <u>Counter Designation:</u> 110:1-111:16, 106:2-17
Track 1 Defendants	114:4-115:11	<u>Objection:</u> FRE 402 (Relevance), Vague (does not specify the region in question at 115:9-10); leading question at 115:2-7; FRE 602 (foundation).
Track 1 Defendants	124:16-126:2	<u>Objection:</u> FRE 402 (Relevance); Leading question at 125:11-14, vague question at 124:16-19, foundation (testified earlier he doesn't recall attending the meeting). <u>Counter Designation:</u> 122:19-124:15, 110:1-111:16
Track 1 Defendants	127:14-129:15	<u>Objection:</u> FRE 402 (Relevance), Leading question at 127:14-18, 127:20-128:2, 128:4-8, leading and vague question at 128:15-20.
Track 1 Defendants	141:7-142:7	<u>Objection:</u> FRE 402(relevance), FRE 602 (foundation – throughout this designation); leading question at 141:7-12, No question pending at 142:2-3.
Track 1 Defendants	157:14-158:18	<u>Objection:</u> FRE 602 (foundation), FRE 402 (relevance); FRE 802; assumes facts not in evidence

Offering Party	Designation Range	Objection/Counter Designation
		(designated the identification of an exhibit that has not been designated as an exhibit by defendants). <u>Counter Designation:</u> 157:3-13
Track 1 Defendants	170:11-21	<u>Objection:</u> FRE 602 (Foundation). <u>Counter Designation:</u> 68:17-72:4; 75:4-76:10
Track 1 Defendants	172:15-173:13	<u>Objection:</u> FRE 602 (Foundation). <u>Counter Designation:</u> 68:17-72:4; 75:4-76:10

8. Timothy J. Miller, Anthem Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 5, 2005 Transcript: 4:14-6:8	
Track 1 Defendants	18:15-19:13	<u>Objection to 19:9-13:</u> FRE 802 – Hearsay <u>Counter Designation:</u> 56:19-57:8
Track 1 Defendants	20:4-14	<u>Objection to 20:4-14:</u> FRE 402 – relevance; does not pertain to a party in the case. <u>Counter Designation:</u> 20:15-21:2
Track 1 Defendants	21:21-22:13	<u>Objection to 20:4-14:</u> FRE 402 – relevance; does not pertain to a party in the case. <u>Counter Designation:</u> 20:15-21:2).

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	86:17-88:20	<u>Counter Designation:</u> 89:8-17

9. David B. Morris, Anthem Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not an officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	January 5, 2005 Transcript: 4:15-7:14	
Track 1 Defendants	45:16-46:16	
Track 1 Defendants	65:16-70:21	<u>Objection:</u> FRE 402 – The questioning is not related to a specific drug or defendant in the case and therefore irrelevant. Further, the testimony relates specifically to reimbursement of pharmacists, which would include a gamut of drugs outside the scope of the Complaint and, therefore, is irrelevant.

10. John B. Syer, Jr., Anthem Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objection</u> – FRE 402 – Testimony not relevant because this is a non-party third-party payor.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 6, 2005 Transcript: 4:9-10:15	
Track 1 Defendants	19:15-21:17	<u>Objection:</u> FRE 402 –Also not relevant because the “special deals” referenced are not linked to AWP. <u>Counter Designation:</u> 19:3-6

11. Hal Goldman, Beacon/Vista Healthplan

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 20, 2004 Transcript: 8:9-20	
Track 1 Defendants	9:18-10:20	
Track 1 Defendants	39:14-40:1	<u>Objection:</u> FRE 402. Testimony is irrelevant for Track 1 Defendants, and does not address Track 1 drugs at issue. <u>Objection:</u> FRE 802. Inadmissible Hearsay as testimony refers to written document not in evidence.
Track 1 Defendants	47:7-12	<u>Objection:</u> FRE 402. Testimony is irrelevant for Track 1 Defendants, and does not address Track 1 drugs at issue. <u>Objection:</u> FRE 802. Inadmissible Hearsay as testimony refers to written document not in evidence.
Track 1 Defendants	58:19-60:4	Objection: FRE 402. Testimony at 59:1-7 is non-responsive to question asked and is speculation as to a “factor that might be considered,” objectionable under FRE 602. Also, designated testimony is

Offering Party	Designation Range	Objection/Counter Designation
		irrelevant under FRE 402 as there is no reference to time, defendant or drug at issue.
Track 1 Defendants	109:17-110:11	

12. Paula Pfankuch, Blue Cross Blue Shield Illinois

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not an officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	September 14, 2001 Transcript: 8:7-13:2	
Track 1 Defendants	25:6-26:21	
Track 1 Defendants	27:13-28:16	<u>Objection:</u> lack of foundation witness not knowledgeable about creation of document. <u>Counter Designation:</u> 28:17-29:16
Track 1 Defendants	34:5-40:8	<u>Objection:</u> (37:1-21) – vague; compound question.
Track 1 Defendants	40:10-43:21	<u>Objection:</u> (40:17-20) – question calls for the witness to speculate.
Track 1 Defendants	45:14-46:6	<u>Counter Designation:</u> 48:13-49:5
Track 1 Defendants	50:1-14	
Track 1 Defendants	52:8-53:5	<u>Counter Designation:</u> 85:13-87:9

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	73:15-74:3	<u>Counter Designation:</u> 76:17-77:2
Track 1 Defendants	79:3-82:2	<u>Objection:</u> (79:3-8) makes no reference to defendant or drug at issue in the case.
Track 1 Defendants	83:21-84:19	<u>Objection:</u> (83:21-84:2) makes no reference to time frame, defendant or drug at issue in the case.

13. Mickey Brown, Blue Cross Blue Shield Mississippi

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 9, 2005 Transcript:	<u>Objection:</u> Global objection to witness testimony under FRE 402 as not relevant to Massachusetts class trial issues.
Track 1 Defendants	9:9-20	
Track 1 Defendants	23:11-25:12	
Track 1 Defendants	39:6-48:11	
Track 1 Defendants	61:6-14	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to subject drugs, timeframe or parties.
Track 1 Defendants	67:9-68:2	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to subject drugs, timeframe or parties.
Track 1 Defendants	70:15-71:8	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to subject drugs, timeframe or parties. Question calls for speculation in isolation of FRE 602 and response not based on personal knowledge. FRE 701 – testimony is the opinion of a lay witness. At 71:7-8, witness states she had no idea what results would arise from hypothetical question.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	83:21-84:19	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to subject drugs, timeframe or parties. FRE 602 – testimony calls for inadmissible speculation. FRE 701 – testimony is the opinion of a lay witness.
Track 1 Defendants	85:3-11	<u>Objection:</u> FRE 602 – witness has no personal knowledge of a relationship between AWP and acquisition cost. FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	95:12-97:22	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	111:7-15	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue. <u>Objection:</u> FRE 602 – testimony not based on personal knowledge.
Track 1 Defendants	119:1-120:11	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	127:7-128:12	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue. <u>Objection:</u> FRE 602 – testimony not based on personal knowledge.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	145:3-145:13	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	146:11-147:8	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	156:14-22	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.
Track 1 Defendants	161:6-162:1	<u>Objection:</u> FRE 402 – testimony is irrelevant as there is no reference to parties, timeframe, subject drug, or matter at issue.

14. Jill S. Herbold, Cigna

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 14, 2005 Transcript: 6:7-18	
Track 1 Defendants	8:8-9:22	
Track 1 Defendants	14:16-19:1	
Track 1 Defendants	20:14-21:3	
Track 1 Defendants	21:8-22	<u>Objection to 21:8-22:</u> FRE 602. No personal knowledge. <u>Counter Designation:</u> 29:10-20
Track 1 Defendants	27:12-31:7	<u>Objection to 29:4-9:</u> FRE 602. No foundation established for witness testimony.
Track 1 Defendants	33:22-36:9	
Track 1 Defendants	39:22-42:6	
Track 1 Defendants	57:20-58:2	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	60:5-62:19	<u>Objection to 60:11-62:19:</u> Motion to strike on record – beyond scope allowed by Magistrate Judge.
Track 1 Defendants	67:8-15	<u>Objection:</u> FRE 602 – no personal knowledge; FRE 403 – irrelevant pharmacy drugs not in case.
Track 1 Defendants	68:1-69:16	<u>Objection to 68:18-69:3:</u> FRE 602 – no personal knowledge (speculation) – objection on record. <u>Objection to 69:8-16:</u> FRE 602 – no personal knowledge (speculation) – objection on record.
Track 1 Defendants	74:11-75:11	
Track 1 Defendants	75:21-76:16	
Track 1 Defendants	79:3-80:2	
Track 1 Defendants	85:21-86:11	
Track 1 Defendants	86:20-87:21	<u>Counter Designation:</u> 87:22-88:11

15. Russell Hailey, Coventry Health Care Inc.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	August 4, 2004 Transcript: 6:10-16	
Track 1 Defendants	7:16-8:8	
Track 1 Defendants	151:3-16	<u>Objection:</u> FRE 402 – Testimony is irrelevant as there is no reference to Defendant, time or drug at issue. <u>Counter Designation:</u> 34:17-36:6; 56:7-57:8; 156:18-158:2

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	151:18-155:10	<u>Objection:</u> 151:18-152:2 – FRE 402 – Testimony is irrelevant as there is no reference to Defendant, time or drug at issue. The designations at 152:3-153:9 represent commentary by counsel and constitute inadmissible hearsay under FRE 802. 153:11-155:10 constitute irrelevant testimony under FRE 402. There is no reference to Defendant, time or drug at issue.
Track 1 Defendants	196:7-22	<u>Objection:</u> Witness testimony is irrelevant under FRE 402 as there is no reference to Defendant, time or drug at issue. Comment by counsel at 196:20 is inadmissible hearsay (FRE 802) as is the testimony at 196:22.

16. Bruce M. Niebylski, Health Alliance Plan

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> FRE 402 – General objection to witness' testimony as not relevant
Track 1 Defendants	June 20, 2006 Transcript: 5:12-6:3	
Track 1 Defendants	69:4-16	<u>Objection:</u> FRE 602 – Testimony not based on personal knowledge; thus, speculation. <u>Counter Designation:</u> 16:1-13; 46:6-19; 71:1-18; 144:6-9
Track 1 Defendants	70:15-71:18	<u>Objection:</u> FRE 602 – Testimony not based on personal knowledge; thus, speculation.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	121:18-122:21	<p><u>Objection:</u> FRE 402 – HAP's public relation concerns are not relevant.</p> <p><u>Objection:</u> FRE 602 – Testimony not based on personal knowledge; thus, speculation. Witness speculates as to possible "backlash in the community"; also witness has no foundation for his speculation that oncologists receive 30-40% of their income from oncology drugs.</p> <p><u>Counter Designation:</u> 123:12-15</p>

17. Karen Ferro, HealthNet Pharmaceutical Services

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> FRE 402 – General objection to witness' testimony as not relevant.
Track 1 Defendants	February 1, 2006 Transcript: 6:2-10	
Track 1 Defendants	13:2-21	
Track 1 Defendants	16:1-10	<p><u>Objection:</u> FRE 602 – Testimony not based on personal knowledge; thus, speculation.</p> <p><u>Counter Designation:</u> 16:11-15; 17:7-10</p>
Track 1 Defendants	19:19-20:8	<p><u>Objection:</u> FRE 602 – Testimony not based on personal knowledge; thus, speculation.</p> <p><u>Counter Designation:</u> 18:5-19; 19:8-18; 20:9-21; 31:14-20</p>
Track 1 Defendants	22:3-29:8	
Track 1 Defendants	39:18-41:16	<u>Counter Designation:</u> 32:2-33:16; 10:8-16

18. Michael Baca, HealthNet Pharmaceutical Services

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 8, 2004 Transcript: 5:9-7:15	
Track 1 Defendants	13:20-17:8	
Track 1 Defendants	79:8-80:4	
Track 1 Defendants	164:17-166:4	
Track 1 Defendants	169:6-170:5	
Track 1 Defendants	184:6-185:1	<u>Counter Designation:</u> 26:7-17; 38:22-39:4; 39:21; 40:1-4; 40:8-12; 42:8-22; 89:18-90:5; 93:20-95:22; 96:22-98:2; 98:5-11; 98:18-99:9; 100:1-6; 100:9-12.
Track 1 Defendants	200:7-201:2	
Track 1 Defendants	207:16-208:1	<u>Counter Designation:</u> 26:7-17; 38:22-39:4; 39:21; 40:1-4; 40:8-12; 42:8-22; 89:18-90:5; 93:20-95:22; 96:22-98:2; 98:5-11; 98:18-99:9; 100:1-6; 100:9-12.

19. Karla A. Austen, HealthNet Pharmaceutical Services

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 6, 2005 Transcript: 5:12-9:22	<u>Counter Designation:</u> 10:1-15 and 14:5-9.
Track 1 Defendants	14:21-17:1	<u>Counter Designation:</u> 17:6-19.
Track 1 Defendants	18:21-22:9	<u>Objection:</u> FRE 402 – Relevance. Testimony involves payments to capitated physicians. Involves physician fees – not drug reimbursement. <u>Objection</u> to 18:21; 19:5; 21:15 and 21:18: Question is vague. <u>Objection</u> to 19:19; 20:4; 20:9; 20:21; 21:10; 21:15 and 21:18: FRE 611 – Question is leading.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	24:19-26:12	<p><u>Objection</u>: FRE 402 - Relevance. Testimony regards fees to physicians for capitated services by Humana, not the witness, Health Net.</p> <p><u>Objection</u> to 25:7 and 25:13: FRE 602 – Foundation. Basis for witness knowledge regarding ownership of pharmaceuticals is not established. FRE 802 – Hearsay. Since witness does not have personal knowledge.</p> <p><u>Objection</u> to 25:2; 26:5 and 26:10: FRE 611 – Leading.</p>
Track 1 Defendants	28:8-29:18	<p><u>Objection</u> to 28:8-11: FRE 402 – Relevance. Who cares why witness quit Humana.</p> <p><u>Objection</u> to 28:12-29:9: FRE 402 – Witness was not responsible for contracting for pharmaceutical reimbursement.</p>
Track 1 Defendants	30:14-31:19	<p><u>Objection</u> to 30:19-31:1: FRE 602 – Foundation. Witness did not testify that she had any responsibility for reimbursement contracts.</p> <p><u>Objection</u> to 31:6-13: FRE 602 – Basis for knowing why physicians wanted to renegotiate. Who? All Physicians? FRE 802 – Hearsay. Basis for knowing why physicians wanted to renegotiate. Who? All Physicians? FRE 701 – Opinion. Answer calls for her opinion on reason why.</p>
Track 1 Defendants	33:5-34:20	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	35:6-38:8	<p><u>Objection:</u> FRE 402 – Relevance. Witness testimony relates to payments to hospitals, physicians and clinics for services – not reimbursement for pharmaceuticals. Testimony regarding Health Net's subjective expectation about an increase in costs not tied to pharmaceuticals in general let alone a drug in the case. FRE 602 – Foundation. Witness' knowledge concerning changes in contracts prior to 2003 is not established.</p> <p><u>Counter Designation:</u> 38:9-18; 39:4-15.</p>
Track 1 Defendants	39:16-42:6	<p><u>Objection:</u> FRE 402. Relevance. Time period to which witness is testifying is not defined.</p> <p><u>Counter Designation:</u> 42:14-43:1; 43:19-21; 44:12-13.</p> <p><u>Objection to 40:1-42:3:</u> FRE 602 – Foundation. Basis for witness knowledge concerning preferred vendor program not established.</p> <p><u>Counter Designation:</u> 42:14-43:1. She does not know when program began.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	47:1-53:13	<p><u>Objection</u> to 47:1-53:13: FRE 402 – Relevance.</p> <p><u>Counter Designation</u>: 54:8-13.</p> <p><u>Objection</u>: FRE 602 – Foundation. Testimony at 49:11-16 – witness has no knowledge concerning attempts to discover physician acquisition costs prior to 2003. Testimony at 50:11-19 – witness does not know basis for pricing. Testimony at 53:2 – lack of foundation. FRE 402 – Relevance. Witness is testifying regarding a specialty pharmacy program. Testimony at 51:9-12 – program has not been implemented.</p>
Track 1 Defendants	56:9-57:4	<p><u>Objection</u>: FRE 602 – Foundation. Basis for witness knowledge regarding efforts to determine physician acquisition cost. FRE 402 – Relevance. Testimony at 57:1-4 – changed from AWP to ASP +6%.</p>
Track 1 Defendants	60:7-61:20	<p><u>Objection</u>: FRE 402 – Relevance. Witness is discussing reimbursement paid to physicians through Health Net v. “other entity.”</p> <p>FRE 602. Foundation. It does not appear that witness understands the question.</p> <p>Testimony at 60:11 – witness says other entity pays; at 60:19-20 – witness says Health Net pays.</p> <p><u>Counter Designation</u>: 60:1-6. Witness does not know the answer.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	86:1-90:19	<u>Objection</u> : FRE 602. At 86:9 witness testified she has no knowledge of Medicare plans offered prior to 1999. At 87:2 witness testified that Medicare Choice is a plan offered prior to 1999. At 88:1 witness testifies to series of questions regarding Medicare Choice. FRE 402 – Relevance. 89:18-90:13 – time reference is unclear.
Track 1 Defendants	96:10-98:6	<u>Objection</u> to 98:1: FRE 611 – Leading.
Track 1 Defendants	100:16-105:13	<u>Objection</u> : FRE 402 – Relevance. Witness testimony regarding “medical fee schedules” is not relevant. <u>Objection</u> to 101:14-19: FRE 611 – Leading. <u>Objection</u> to 102:6-13; 103:21-104:2; 105:8-13: FRE 602 – Foundation. Witness testified she does not know the answer.
Track 1 Defendants	116:10-120:12	<u>Objection</u> to 116:10-120:12: FRE 402 – Relevance. Testimony regarding a document not in evidence. Testimony regarding ASP reimbursement not relevant. <u>Objection</u> to 117:1-18: FRE 602 – Foundation. At 117:4 witness testifies she does not know. <u>Objection</u> to 118:9-15 and 120:2-12: FRE 602 – Foundation. Witness testifies she does not know.
Track 1 Defendants	125:17-127:5	<u>Objection</u> : FRE 402 – Relevance – testimony regarding a document not in evidence. <u>Objection</u> to 125:20-126:19: Question is vague.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	146:9-16	<p><u>Objection:</u> FRE 402 – Relevance. Question is vague as to time. FRE 602 – Foundation. Question pertains to period preceding her employment. She does not know.</p> <p><u>Counter Designation:</u> 145:21-146:2; 146:5-8; 146:17-147:9</p>
Track 1 Defendants	151:4-9	<p><u>Objection:</u> FRE 602 – Foundation. Witness is testifying to physicians acquisition cost. Foundation not established. FRE 802 – not subject to any exception. Question calls for hearsay.</p>
Track 1 Defendants	152:14-155:8	<p><u>Objection:</u> FRE 402 – Relevance. Unclear to what time period witness' testimony applies. Testimony regarding practice groups in hospitals not relevant.</p> <p><u>Objection:</u> FRE 602 – Foundation. At 152:20 witness states she does not know; however proceeds to testify at 153:2. Reference is unclear “a small portion” a “moderate portion.”</p> <p><u>Objection to 154:12-155:8:</u> FRE 402 – Relevance. Testimony that process is starting in 2005 is irrelevant as reimbursement is no longer based on AWP and now based on ASP+6%.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	161:4-165:8	<p><u>Objection</u> to 161:4-165:8: FRE 402 – Relevance. At 162:12 testimony regarding a hypothetical negotiation with a potential customer, “say GE.” Witness’ testimony pertains to an actual negotiation (not sure since reference is unclear) and that is occurring in 2005 and not based on AWP.</p> <p><u>Objection</u> to 161:12-165:2: FRE 611 – Questions are leading.</p> <p><u>Objection</u> to 163:15 and 164:3: FRE 611 and 611b – Questions are leading and argumentative.</p> <p><u>Counter Designation</u>: 63:11-21; 64:10-13; 66:11-22; 71:12-18.</p>

20. Mike Beaderstadt, Heritage National Health Plan

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 17, 2004 Transcript: 5:19-8:4	
Track 1 Defendants	11:21-12:19	<p><u>Objection</u>: FRE 402. Irrelevant because John Deere’s managed care program is not relevant to this case.</p>
Track 1 Defendants	15:6-17:1	
Track 1 Defendants	45:20-51:12	<p><u>Objection to 49:16-50:7</u>: FRE 802. Hearsay not subject to any exception as testimony relates to arbitration decision and positions of providers.</p> <p><u>Objection to 45:20-51:12</u>: FRE 402 – Irrelevant. John Deere’s practices not relevant to case.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	57:4-60:16	<u>Objection</u> to 59:13-60:16: FRE 402. Immunization reimbursement is irrelevant to case. Reimbursement for administration of oncology drugs is irrelevant.
Track 1 Defendants	66:7-22	<u>Objection</u> : FRE 802 – Hearsay. No exception. Refers to a document not identified on the designated record and not in evidence. Unintelligible. Misleading. Answer not responsive to anything on record.
Track 1 Defendants	72:17-73:5	<u>Objection</u> : FRE 106. Remainder of statement should be considered. <u>Counter Designation</u> : 73:6-10; 73:22-74:18
Track 1 Defendants	75:22-76:7	<u>Counter Designation</u> : 81:16-82:11
Track 1 Defendants	76:9-21	

21. Margaret M. Johnson, Horizon Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 22, 2004 Transcript: 7:16-19	
Track 1 Defendants	8:14-10:10	
Track 1 Defendants	21:1-4	<u>Objection</u> : FRE 611 both questions are leading. <u>Objection</u> : FRE 602 lack of foundation; counsel has not established the witness' definition of WAC.
Track 1 Defendants	21:22-22:10	<u>Objection</u> : FRE 611 both questions are leading.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	24:17-31:19	<u>Objection:</u> (26:11-27:3) FRE 602 – witness is speculating / lack of foundation. <u>Objection</u> (28:5-15) FRE 602 witness is speculating / lack of foundation. <u>Objection</u> (28:16-19) FRE 611 leading. <u>Objection</u> (29:22-30:6) FRE 602 witness is speculating / lack of foundation. <u>Objection</u> (30:22-31:4) FRE 611 leading. <u>Objection</u> (31:5-8) FRE 611 leading. <u>Objection</u> (31:9-12). <u>Objection</u> (31:17-19) FRE 611 leading.
Track 1 Defendants	34:7-21	
Track 1 Defendants	46:5-7	
Track 1 Defendants	48:19-49:6	
Track 1 Defendants	218:14-18	<u>Counter Designation:</u> 216:8-218:9; 218:19-220:21.

22. Susan Mengert, Horizon Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 5, 2005 Transcript: 9:20-15:13	
Track 1 Defendants	70:10-81:7	<p><u>Objection to 70:10-73:3, 74:6-75:2, 75:6-76:12: FRE 802.</u> Hearsay; not subject to any exception (document not in evidence).</p> <p><u>Objection to 70:10-73:3, 74:6-75:2, 75:6-76:12: FRE 805.</u> Hearsay within hearsay; not subject to any exception to the extent testimony refers to statements within the document which is not in evidence.</p> <p><u>Objection to 78:13-79:5: FRE 802.</u> Hearsay; not subject to any exception (document not in evidence).</p> <p><u>Objection to 79:20-80:2:</u> Objection to form.</p> <p><u>Objection to 80:3-81:7: FRE 802.</u> Hearsay; not subject to any exception (document not in evidence).</p> <p><u>Objection to 80:3-81:7:</u> FRE 805. Hearsay within hearsay; not subject to any exception to the extent testimony refers to statements within the document which is not in evidence.</p> <p><u>Objection to 80:3-81:7:</u> FRE 106. Testimony places designated testimony in context.</p> <p><u>Counter Designation:</u> 149:17-150:20</p>

23. William K. Fleming, Humana

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> General objection – FRE 402 – Humana is irrelevant to the case.
Track 1 Defendants	January 11, 2005 Transcript: 4:18-19:8	<u>Objection:</u> FRE 402 (Relevance - his testimony on AWP is focused on rebates sought by pharmacies, primarily in Kentucky); Leading question at 9:21-10:2; Leading questions at 12:2-10; Vague question and Rule 602 (lack of foundation) at 12:6-10 (doesn't specify what "industry" means with reference to knowledge about AWP – <i>i.e.</i> limited to pharmacies?); Rule 602 – Lack of foundation (Question at 12:6-12:10 concerns "early 90s" but Fleming didn't join Humana until 1994); Vague question at 13:22-14:5 (does not define "close"); Vague question at 14:6-14:17 (switched question in middle of asking it without restating it); leading question at 16:3-16:8. <u>Counter-Designation:</u> 12:2-10; 13:22-14:9; 24:4-9; 26:7-16; 92:7-93:9.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	19:9-20:20	<u>Objection:</u> FRE 402 (Relevance to the extent he is solely testifying about pharmacies); vague question at 19:9-11; leading, compound, and vague question at 19:19-22; leading and vague questions at 20:11-20. <u>Counter Designation:</u> 20:21-22:7.
Track 1 Defendants	39:20-40:11	<u>Objection:</u> Question mischaracterizes the witnesses' testimony.
Track 1 Defendants	67:1-71:13	

24. Gary Owens, MD, Independence Blue Cross

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> General objection (FRE 402) – Testimony of non-party third-party payor.
Track 1 Defendants	July 22, 2005 Transcript: 5:21-6:15	
Track 1 Defendants	11:18-12:4	
Track 1 Defendants	23:19-24:18	<u>Objection:</u> FRE 402 & 602 – Testimony is based on speculation and is not relevant to the time period at issue in this case. <u>Counter Designation:</u> 23:5-17
Track 1 Defendants	25:13-19	<u>Objection:</u> FRE 402 & 602 – Testimony is based on speculation and is not relevant to the time period at issue in this case. <u>Counter Designation:</u> 25:4-12; 25:21-27:6
Track 1 Defendants	37:20-38:2	<u>Counter Designation:</u> 38:3-6

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	40:12-42:1	<u>Counter Designation:</u> 42:8-12
Track 1 Defendants	43:13-46:10	
Track 1 Defendants	49:5-50:16	<u>Objection:</u> FRE 402 – Leverage between managed care organizations and physicians not relevant to issues in the litigation.
Track 1 Defendants	57:6-58:20	<u>Objection:</u> Beyond the scope of the 30(b)(6) deposition.
Track 1 Defendants	82:1-83:15	<u>Objection:</u> FRE 402 – The fact that Independence Blue Cross considers its reimbursement rates to providers to be proprietary is not relevant to this issues in this case. <u>Counter Designation:</u> 83:17-20; 117:4-10; 117:17-20
Track 1 Defendants	123:2-21	<u>Objection</u> as to form – compound question. <u>Counter Designation:</u> 120:20-121:7; 121:17-123:1; 123:22-124:3
Track 1 Defendants	127:8-129:4	<u>Counter Designation:</u> 131:2-15; 148:16-149:8; 199:11-200:9
Track 1 Defendants	159:11-160:11	<u>Counter Designation:</u> 158:15-159:10
Track 1 Defendants	162:8-20	<u>Objection:</u> FRE 602 – Witness lacks foundation to answer as he previously testified that he does not know acquisition cost data. <u>Counter Designation:</u> 121:17-123:1; 177:5-9
Track 1 Defendants	193:2-17	<u>Objection:</u> FRE 402 – It is not clear from the testimony what reimbursement was increased and whether the increase is relevant to PADs at issue in the case.
Track 1 Defendants	201:16-202:4	<u>Counter Designation:</u> 202:5-9

25. Eric Cannon, Intermountain Healthcare

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 13, 2004 Transcript: 7:5-9:2	<u>Objection</u> : FRE 402. Testimony is irrelevant as no reference to parties, subject drugs or matter at issue.
Track 1 Defendants	23:19-24:19	<u>Objection</u> : FRE 402. Testimony is irrelevant as no reference to parties, subject drugs or matter at issue.
Track 1 Defendants	35:16-36:18	
Track 1 Defendants	52:4-55:4	<u>Objection</u> : FRE 802. Testimony at 52:5-14, 52:19-53:9, and 54:10-55:4 is inadmissible hearsay. <u>Objection</u> : FRE 602. Not based on personal knowledge.
Track 1 Defendants	56:11-57:2	<u>Objection</u> : FRE 402. Testimony is irrelevant as no reference to any party, subject drug or timeframe. <u>Counter Designation</u> : 56:1-10; 57:14-58:11
Track 1 Defendants	59:9-20	<u>Objection</u> : FRE 402. Testimony is irrelevant as no reference to any party, subject drug or timeframe.
Track 1 Defendants	61:8-11	<u>Objection</u> : FRE 402. Testimony is irrelevant as no reference to any party, subject drug or timeframe. <u>Objection</u> : FRE 602 – Speculation, not based on personal knowledge.
Track 1 Defendants	74:2-9	<u>Objection</u> : FRE 602 – no foundation. <u>Objection</u> : FRE 402 – irrelevant.
Track 1 Defendants	89:8-12	<u>Objection</u> : FRE 602 – no foundation for personal knowledge. <u>Objection</u> : FRE 402 – irrelevant.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	119:5-123:20	<u>Objection:</u> FRE 402 – Irrelevant. Testimony references written document not in evidence or designated as a trial exhibit; testimony does not pertain to any subject drug. <u>Objection:</u> FRE 802 – Hearsay. Quotes or excerpts from written document are inadmissible hearsay. <u>Objection:</u> FRE 602 – no foundation for personal knowledge (121:1-122:9).
Track 1 Defendants	126:2-16	<u>Objection:</u> FRE 402 – Irrelevant. No reference to subject drugs and plaintiffs; referenced document not a designated exhibit. <u>Objection:</u> FRE 802 – Hearsay. Testimony regarding written document is inadmissible hearsay.
Track 1 Defendants	131:1-133:7	<u>Objection:</u> FRE 402 – Irrelevant. No reference to subject drugs and plaintiffs; referenced document not a designated exhibit. <u>Objection:</u> FRE 802 – Hearsay. Testimony regarding written document is inadmissible hearsay.
Track 1 Defendants	135:19-136:22	<u>Objection:</u> FRE 402 – Irrelevant. No reference to timeframe or a subject drug.
Track 1 Defendants	147:4-7	<u>Objection:</u> FRE 402 – Irrelevant. No reference to timeframe or a subject drug.
Track 1 Defendants	148:14-149:10	<u>Objection:</u> FRE 402 – Irrelevant. No reference to timeframe or a subject drug. <u>Objection:</u> FRE 802 – Inadmissible Hearsay.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	149:16-151:19	<u>Objection:</u> FRE 402 – Irrelevant. No reference to timeframe or a subject drug.
Track 1 Defendants	152:13-158:5	<u>Objection:</u> FRE 402 – Irrelevant. No reference to subject drugs and referenced documents and data are not designated exhibits. <u>Objection:</u> FRE 802. References to contents of documents and data are inadmissible hearsay. <u>Counter Designation:</u> 47:18-48:14; 76:12-77:1

26. Dale Kramer, Kaiser Permanente in Northern California

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	July 23, 2004 Transcript: 5:12-20	<u>Counter Designation:</u> 11:8-12:5; 12:20-13:3; 13:6-8
Track 1 Defendants	48:7-50:20	

27. David W. Thomas, Three Rivers Health Plans

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 24, 2004 Transcript: 4:8-13	
Track 1 Defendants	52:5-55:17	<u>Objection:</u> FRE 402. Testimony is irrelevant as there is no reference to plaintiffs, defendants, timeframe or subject drugs at issue before the Court
Track 1 Defendants	70:9-71:13	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	73:10-74:6	<u>Objection:</u> FRE 602. Witness admits he was not involved in negotiation of rates and testimony is speculative and not based on personal knowledge. <u>Objection:</u> FRE 402. Testimony is irrelevant as non-responsive to questions.
Track 1 Defendants	145:5-20	<u>Objection:</u> FRE 402. Witness' response is non-responsive to question asked and plaintiffs move to strike response. Witness failed to respond to direct question whether or not "real concern be to get the biggest discount off of AWP" if goal was best price for pharmaceuticals. <u>Counter Designation:</u> 132:11-133:2; 139:15-143:12; 143:22-145:4
Track 1 Defendants	150:7-10	<u>Objection:</u> FRE 402. Testimony is irrelevant as witness' testimony is not based on personal knowledge (objectionable under FRE 602). Witness admits lack of knowledge about AWP for generics.

28. Kelly Ellston, Union Labor Life Insurance Company

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	November 23, 2004 Transcript: 21:4-20	<p><u>Objection:</u> FRE 402. Testimony is irrelevant as it has no reference to any defendant or subject drug.</p> <p><u>Objection:</u> FRE 602. No foundation that this witness has personal knowledge of contracts and pricing or reimbursement methods.</p> <p>Further, as shown by counter designations, witness denies personal knowledge of pricing or reimbursement for drugs.</p> <p><u>Counter Designation:</u> 5:19-22; 8:14-9:6; 11:9-12:3; 15:9-12; 19:15-20:17</p>
Track 1 Defendants	22:2-28:6	<p><u>Objection:</u> FRE 402. Testimony is irrelevant to defendants and/or subject drugs and/or plaintiffs' claims.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	66:9-69:16	<p><u>Objection:</u> FRE 402. Testimony is irrelevant to defendants and/or subject drugs and/or plaintiffs' claims.</p> <p><u>Objection:</u> FRE 602. Testimony is not based on personal knowledge, vague and speculative regarding Union Labor Life (not a 30(b)(6) dep.), possible reimbursement payments in hypothetical questioning in violation of FRE 602. Witness confirms her lack of knowledge to respond to questioning in plaintiffs' designated testimony.</p> <p><u>Counter Designation:</u> 46:9-20; 47:17-48:19; 55:10-15; 57:21-59:5; 61:2-4; 69:17-70:2</p>
Track 1 Defendants	89:3-90:5	<p><u>Objection:</u> FRE 602. Testimony is speculative, not based on personal knowledge, and no foundation provided for witness to testify on behalf of Union Labor Life as to knowledge, expectations or calculations of Union Labor Life.</p>

29. Greg Watanabe, Wellpoint Pharmacy Management

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objection</u> : FRE 402. Third-party testimony is not relevant.
Track 1 Defendants	November 18, 2004 Transcript: 5:13-7:18	
Track 1 Defendants	56:14-57:5	<u>Counter Designation</u> : 55:15-22; 60:6-16
Track 1 Defendants	58:5-11	

30. Peggy Lynch, Banner Health

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 12, 2005 Transcript: 18:16-19:15	
Track 1 Defendants	57:5-12	<u>Objection</u> : FRE 602 – witness speculating. <u>Counter Designation</u> : 57:1-4; 57:13-20
Track 1 Defendants	64:7-18	<u>Counter Designation</u> : 58:4-59:7
Track 1 Defendants	138:21-139:9	
Track 1 Defendants	154:5-155:9	<u>Objection</u> : FRE 802 - Document referenced not in evidence. <u>Counter Designation</u> : 189:5-191:5

31. Brent Priday, Banner Health

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 28, 2005 Transcript: 7:22-9:2	
Track 1 Defendants	22:8-23:3	<u>Counter Designation</u> : 38:3-40:4, 65:17-67:19
Track 1 Defendants	24:5-22	<u>Objection</u> : FRE 602 – witness speculating.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	31:9-18	<u>Counter Designation:</u> 38:3-40:4, 65:17-67:19
Track 1 Defendants	51:20-52:1	<u>Counter Designation:</u> 52:2-7

32. Matthew P. McCullough, Findley Davies

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	June 15, 2004 Transcript: 10:10-13:7	
Track 1 Defendants	15:16-16:1	<u>Objection:</u> FRE 402. Irrelevant as no reference to defendant, plaintiff, time or subject drugs.
Track 1 Defendants	20:20-21:9	<u>Objection:</u> FRE 402. Irrelevant as no reference to defendant, plaintiff, time or subject drugs.
Track 1 Defendants	57:14-21	<u>Objection:</u> FRE 402. Irrelevant as no reference to defendant, plaintiff, time or subject drugs. <u>Objection:</u> FRE 802 – Inadmissible hearsay.
Track 1 Defendants	58:20-59:2	<u>Objection:</u> FRE 402. Irrelevant and question and answer have no reference to defendant, plaintiff, time or subject drug.
Track 1 Defendants	77:8-78:4	<u>Objection:</u> FRE 402. Testimony at 77:11-78:4 is irrelevant as it constitutes inadmissible speculation under FRE 602 and inadmissible opinion testimony under FRE 701.
Track 1 Defendants	114:19-115:6	<u>Objection:</u> FRE 402. Testimony is in reference to a written document not in evidence, and does not refer to a plaintiff, defendant, time or drug at issue. <u>Objection:</u> 701. Testimony is inadmissible as opinion of lay witness.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	143:1-144:13	<p><u>Objection:</u> FRE 402. Question and testimony at 143:1-14 are inadmissible as question was objected to for form as it is not in question form, but a series of statements by questioning counsel. Testimony at 143:17 is irrelevant as there is no reference to defendant, plaintiff, time or drug at issue. Testimony at 143:22-144:13 is objectionable as the question calls for personal knowledge "in your mind" as opposed to 30(b)(6) representative corporate knowledge. Testimony is also irrelevant as no reference to time, defendant, plaintiff or subject drug.</p> <p><u>Counter Designation:</u> 126:18-127:19</p>

33. Deborah A. Martin, Mercer Human Resources Consulting

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 10, 2004 Transcript: 9:19-20:22	
Track 1 Defendants	41:16-42:8	<p><u>Objection:</u> FRE 802 and assumes facts not in evidence (Exhibit 001 not designated by defendants as an exhibit in trial but is discussed in this excerpt); FRE 901 (exhibit she is testifying about not fully authenticated); FRE 402 (relevance – this is a report Mercer assisted the California Health Care Foundation in producing – irrelevant to the claims in this case).</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	54:12-55:3	<p><u>Objection:</u> FRE 802 and assumes facts not in evidence (she is testifying about certain paragraphs within Martin Exhibit 001 and her understanding of terms used therein, which was not designated by defendants as an exhibit in trial); FRE 901 (exhibit she is testifying about not fully authenticated); FRE 402 (relevance – this is a report Mercer assisted the California Health Care Foundation in producing – irrelevant to the claims in this case); FRE 106 (designation is an incomplete reflection of her full testimony).</p> <p><u>Counter Designation:</u> 55:4-16</p>
Track 1 Defendants	55:17-21	<p><u>Objection:</u> FRE 802 and assumes facts not in evidence (she is testifying about certain paragraphs within Martin Exhibit 001 and her understanding of terms used therein, which was not designated by defendants as an exhibit in trial); FRE 901 (exhibit she is testifying about not fully authenticated); FRE 402 (relevance – this is a report Mercer assisted the California Health Care Foundation in producing – irrelevant to the claims in this case); FRE 106 (designation is an incomplete reflection of her full testimony).</p> <p><u>Counter Designation:</u> 55:4-16</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	81:17-82:14	<u>Objection:</u> FRE 402 (relevance – testimony relates to employer health plans and transparency of PBMs – does not relate to the subject matter of the case).
Track 1 Defendants	85:12-87:15	<u>Objection:</u> FRE 602 (lack of foundation for her opinion expressed in this excerpt and she specifically testified that she does not have this knowledge from her consulting work at Mercer); vague question at 86:16-86:19. <u>Counter Designation:</u> 53:12-54:11, 61:4-62:16
Track 1 Defendants	96:3-18	<u>Objection:</u> FRE 802 and assumes facts not in evidence (Exhibits 007 and 008 are not designated by defendants as exhibits in trial but is discussed in this excerpt and for almost the entire deposition); FRE 901 (exhibits she is testifying about not fully authenticated); FRE 402 (relevance – both documents purport to relate to PBMs, but not designated as exhibits so no way to know).
Track 1 Defendants	107:14-108:21	<u>Objection:</u> FRE 106 (defendants did not designate her entire deposition response). <u>Counter Designation:</u> 108:22-109:3

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	120:8-121:18	<u>Objection:</u> FRE 802 and assumes facts not in evidence (Exhibits 007 and 008 are not designated by defendants as exhibits in trial but is discussed in this excerpt); FRE 901 (exhibits she is testifying about not fully authenticated); FRE 402 (relevance – both documents purport to relate to PBMs, but not designated as exhibits so no way to know).
Track 1 Defendants	125:6-127:6	<u>Objection:</u> Leading and compound question at 127:1-127:5; 602, 901, (the document which witness is being questioned about has not been properly authenticated nor was it designated as a defense exhibit); FRE 802 (attorney is reading from a document not admitted nor designated).
Track 1 Defendants	132:12-133:14	<u>Objection:</u> FRE 402 (relevance – deals with retail pharmacies); vague and compound question, and non-questions, at 132:12-17; FRE 611 (leading question at 133:5-8).
Track 1 Defendants	195:17-196:8	<u>Objection:</u> FRE 106 (incomplete testimony on the subject). <u>Counter Designation:</u> 196:9-20
Track 1 Defendants	196:21-197:8	<u>Objection:</u> Form (each question is vague).

34. Lilli Duval, Pharmaceutical Care Network

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	August 25, 2004 Transcript: 11:8-14	
Track 1 Defendants	19:6-23:1	
Track 1 Defendants	37:4-7	
Track 1 Defendants	77:22-79:8	<u>Objection to 78:22-79:8: FRE 802 – Hearsay.</u>
Track 1 Defendants	105:18-106:2	<u>Objection to 105:22-106:2: FRE 802 – Hearsay.</u> <u>Counter Designation:</u> 105:6-17; 106:3-9

35. Edward A. Kaplan, Segal Co.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	July 12, 2004 Transcript: 12:7-22:5	<u>Counter Designation:</u> 11:20-12-6
Track 1 Defendants	24:2-20	<u>Objection:</u> FRE 106 (incomplete designation of testimony). <u>Counter Designation:</u> 22:21-24:1, 24:21-26:5
Track 1 Defendants	35:19-36:21	
Track 1 Defendants	46:9-18	<u>Objection:</u> FRE 402 (relevance); vague.
Track 1 Defendants	69:1-71:5	<u>Objection:</u> No question asked at 69:16-69:18.
Track 1 Defendants	71:13-74:8	<u>Objection:</u> FRE 402 relevance to entire designation, Vague and compound question at 69:1-7 and 71:18-72:1, no time frame established for the entire designation; FRE 802 hearsay at 70:6-70:2, no question pending at 71:13-72:1, no question pending and vague at 69:16-70:4, question at 73:18-19 calls for speculation.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	101:16-102:14	<u>Objection</u> : FRE 402 (relevance), leading questions at 101:16-102:14; FRE 106 (incomplete designation). <u>Counter Designation</u> : 102:15-22
Track 1 Defendants	103:1-9	<u>Objection</u> : FRE 402 (relevance).
Track 1 Defendants	109:14-113:11	<u>Objection</u> : FRE 402 (relevance), FRE 802 (hearsay); FRE 602 (foundation), questions throughout designation call for speculation.
Track 1 Defendants	135:18-136:21	<u>Objection</u> : Testifying about a document not designated by defendants and not in evidence; FRE 106 (incomplete designation on this issue); FRE 402; FRE 802 (hearsay); Calls for speculation; FRE 602 (no foundation, as this was the first time the witness ever saw this document); question at 135:18 vague and speculative. <u>Counter Designation</u> : 133:14-135:16; 136:22-141:6; 157:1-158:9, 295:18-296:6
Track 1 Defendants	141:7-20	<u>Objection</u> : Foundation, Vague.
Track 1 Defendants	151:20-153:4	
Track 1 Defendants	183:3-185:4	<u>Objection</u> : Document questioned about is not in evidence; argumentative and leading question at 183:3-7, rest of designation calls for speculation.
Track 1 Defendants	187:7-17	<u>Objection</u> : Form (vague), calls for speculation; FRE 106 (incomplete designation). <u>Counter Designation</u> : 187:18-188:9

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	193:11-20	<u>Objection</u> : Improper authentication of document that is exhibit number 995.
Track 1 Defendants	197:1-15	<u>Objection</u> : FRE 602 (foundation – Mr. Kaplan testified that he didn't read this article); calls for speculation. <u>Counter Designation</u> : 194:14-196:22
Track 1 Defendants	198:8-199:19	<u>Objection</u> : FRE 106 (incomplete designation); FRE 802; calls for speculation at 198:22-199:5. <u>Counter Designation</u> : 202:3-13
Track 1 Defendants	230:19-231:7	<u>Objection</u> : FRE 402, FRE 802, assumes facts not in evidence (exhibit not designated by defendants).
Track 1 Defendants	236:15-237:9	<u>Objection</u> : Vague and compound question; assumes facts not in evidence; hearsay; calls for speculation.

36. Ron Lyon, Towers Perrin

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	November 17, 2004 Transcript: 17:1-16	
Track 1 Defendants	35:5-36:21	<u>Objection</u> : FRE 802 Hearsay –the questions relate to the witness conversations with third parties. Objection (36: 15 -21); FRE 611 leading / FRE 602 witness is speculating about third party motivations.
Track 1 Defendants	74:11-19	<u>Objection</u> : (74:17-19) FRE 611 Leading.
Track 1 Defendants	75:18-22	
Track 1 Defendants	79:20-80:7	<u>Counter Designation</u> : 167:17-22

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	81:6-82:2	<u>Counter Designation:</u> 167:17-22

37. Glenn Randle, Sheet Metal Workers

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	November 17, 2005 Transcript: 23:17-24:20	
Track 1 Defendants	27:3-6	
Track 1 Defendants	31:12-32:3	<u>Counter Designation:</u> 34:9-21
Track 1 Defendants	32:14-33:17	<u>Counter Designation:</u> 34:9-21
Track 1 Defendants	37:20-40:5	
Track 1 Defendants	43:20-44:8	
Track 1 Defendants	51:7-15	
Track 1 Defendants	51:19-52:1	
Track 1 Defendants	60:22-61:9	
Track 1 Defendants	61:14-21	
Track 1 Defendants	62:6-9	<u>Counter Designation:</u> 62:10-22; 63:1-3; 64:18-65:4; 93:9-20
Track 1 Defendants	62:12-22	<u>Objection:</u> The document speaks for itself. FRE 901.
Track 1 Defendants	63:4-13	
Track 1 Defendants	78:10-17	
Track 1 Defendants	83:22-85:6	
Track 1 Defendants	137:12-16	

38. Charles Hannaford, Pipefitters Local 537 Health Trust Fund

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	December 29, 2005 Transcript: 5:3-6	
Track 1 Defendants	7:19-9:4	
Track 1 Defendants	10:16-11:13	<u>Counter Designation:</u> 14:11-17:5
Track 1 Defendants	13:10-14:10	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	25:4-17	
Track 1 Defendants	28:1-29:9	<u>Counter Designation:</u> 29:10-22
Track 1 Defendants	32:12-35:17	<u>Counter Designation:</u> 37:3-17
Track 1 Defendants	39:7-40:4	<u>Counter Designation:</u> 41:17-42:20
Track 1 Defendants	52:16-17	<u>Counter Designation:</u> 52:18-53:8; 56:8-11
Track 1 Defendants	57:13-58:18	<u>Objection:</u> Relevance, FRE 403.
Track 1 Defendants	59:10-61:22	<u>Counter Designation:</u> 62:1-4; 62:16-63:3; 63:21-64:3
Track 1 Defendants	71:3-74:22	
Track 1 Defendants	75:16-76:9	<u>Counter Designation:</u> 77:8-22
Track 1 Defendants	78:4-80:6	<u>Objection:</u> Lack of Foundation, Speculation (79:2-5; 79:6-10).
Track 1 Defendants	81:1-21	
Track 1 Defendants	86:8-20	
Track 1 Defendants	88:6-89:6	
Track 1 Defendants	90:17-93:1	
Track 1 Defendants	94:20-95:2	
Track 1 Defendants	95:18-97:6	
Track 1 Defendants	98:6-100:15	<u>Counter Designation:</u> 100:16-101:18
Track 1 Defendants	101:21-102:19	
Track 1 Defendants	104:11-106:17	<u>Objection:</u> Hearsay (105:10-13). <u>Counter Designation:</u> 108:17-109:8
Track 1 Defendants	111:11-114:22	
Track 1 Defendants	118:8-119:22	
Track 1 Defendants	120:13-123:7	
Track 1 Defendants	125:5-126:12	<u>Objection:</u> Leading Question (126:6-12).
Track 1 Defendants	128:18-130:18	
Track 1 Defendants	131:11-133:19	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	134:4-137:8	<u>Objection</u> : Argumentative (134:18-135:3).
Track 1 Defendants	138:15-139:20	<u>Objection</u> : Relevance, FRE 403.
Track 1 Defendants	144:1-146:2	<u>Objection</u> : Relevance, FRE 403.
Track 1 Defendants	148:6-149:7	<u>Objection</u> : Relevance, FRE 403.
Track 1 Defendants	156:8-21	<u>Objection</u> : Vague and Ambiguous (156:18-21).
Track 1 Defendants	157:19-160:1	
Track 1 Defendants	164:17-19	
Track 1 Defendants	169:3-170:8	<u>Counter Designation</u> : 165:6-21; 168:6-14; 255:9-16; 256:17-257:8
Track 1 Defendants	177:3-178:3	<u>Objection</u> : Relevance, FRE 403.
Track 1 Defendants	183:17-184:21	
Track 1 Defendants	191:6-193:3	
Track 1 Defendants	194:6-197:9	
Track 1 Defendants	204:17-206:2	
Track 1 Defendants	211:9-13	<u>Objection</u> : Relevance, FRE 403.
Track 1 Defendants	215:2-218:22	<u>Objection</u> : Relevance, FRE 403. Lack of Foundation. Document Speaks for Itself.
Track 1 Defendants	222:11-223:19	<u>Counter Designation</u> : 224:18-225:1; 227:6-228:13
Track 1 Defendants	226:4-13	
Track 1 Defendants	228:14-17	
Track 1 Defendants	236:13-240:11	<u>Objection</u> : Speculation, Lack of Foundation (237:8-21; 238:19-240:11).
Track 1 Defendants	247:12-248:22	
Track 1 Defendants	249:18-250:21	

39. Daniel Ryan, UFCW

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 16, 2004 Transcript: 9:15-21	
Track 1 Defendants	10:12-16:16	
Track 1 Defendants	21:11-17	
Track 1 Defendants	39:17-42:2	
Track 1 Defendants	50:1-54:20	
Track 1 Defendants	59:2-7	<u>Objection:</u> FRE 403.
Track 1 Defendants	60:11-15	<u>Objection:</u> FRE 403.
Track 1 Defendants	61:21-64:21	<u>Objection:</u> FRE 403.
Track 1 Defendants	75:17-77:12	
Track 1 Defendants	80:20-81:22	
Track 1 Defendants	103:4-106:6	<u>Counter Designation:</u> Ryan (3/16/04) at 55:17-57:5
Track 1 Defendants	113:4-114:17	<u>Counter Designation:</u> Ryan (3/16/04) at 55:17-57:5
Track 1 Defendants	126:10-128:4	<u>Objections.</u> FRE 403. <u>Counter Designation:</u> Ryan (3/16/04) at 55:17-57:5
Track 1 Defendants	137:7-141:6	<u>Counter Designation:</u> Paula Pfankuch, at 25:6-26:7
Track 1 Defendants	150:20-151:1	<u>Counter Designation:</u> Paula Pfankuch, at 25:6-26:7
Track 1 Defendants	155:8-156:16	<u>Objection:</u> FRE 403.
Track 1 Defendants	157:10-14	<u>Objection:</u> FRE 403.
Track 1 Defendants	163:7-13	<u>Objection:</u> FRE 403, FRE 602.
Track 1 Defendants	166:11-177:1	<u>Objection:</u> FRE 403.
Track 1 Defendants	189:11-15	<u>Objection:</u> FRE 403.
Track 1 Defendants	191:8-18	<u>Objection:</u> FRE 403.
Track 1 Defendants	194:22-200:5	<u>Objection:</u> FRE 403.
Track 1 Defendants	201:16-202:21	<u>Objection:</u> FRE 403.
Track 1 Defendants	208:4-209:2	<u>Objection:</u> FRE 403.
Track 1 Defendants	221:4-222:9	<u>Objection:</u> FRE 403; FRE 602.
Track 1 Defendants	251:10-252:22	<u>Objection:</u> FRE 403.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	257:19-258:4	<u>Objection:</u> FRE 403.
Track 1 Defendants	260:8-262:12	<u>Objection:</u> FRE 403.FRE 602.
Track 1 Defendants	266:4-269:17	<u>Objection:</u> FRE 403; FRE 602.
Track 1 Defendants	April 30, 2004 Transcript: 336:13-338:13	<u>Objection:</u> FRE 403.
Track 1 Defendants	355:5-357:14	<u>Objection:</u> FRE 403.
Track 1 Defendants	359:21-361:11	<u>Objection:</u> FRE 403.
Track 1 Defendants	405:6-410:11	<u>Objection:</u> FRE 403.
Track 1 Defendants	416:9-417:15	<u>Objection:</u> Fee agreement speaks for itself. FRE 601.
Track 1 Defendants	431:18-437:6	<u>Objection:</u> FRE 403; FRE 602.
Track 1 Defendants	439:7-443:2	<u>Objection:</u> FRE 403.
Track 1 Defendants	443:11-444:21	
Track 1 Defendants	446:18-449:16	<u>Objection:</u> FRE 403.
Track 1 Defendants	502:2-18	<u>Objection:</u> FRE 403.
Track 1 Defendants	506:18-509:1	<u>Objection:</u> FRE 403; FRE 901.

40. Janice Friedman, UFCW

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 21, 2004 Transcript: 5:4-7	
Track 1 Defendants	5:9-7:16	<u>Counter Designation:</u> 7:17-8:15
Track 1 Defendants	9:19-19:8	
Track 1 Defendants	21:12-23:21	<u>Objection:</u> FRE 403. <u>Counter Designation:</u> 23:22-24:9; 25:1-26:11
Track 1 Defendants	26:12-27:19	
Track 1 Defendants	29:22-30:22	
Track 1 Defendants	38:13-39:19	<u>Objection:</u> FRE 403. <u>Counter Designations:</u> 40:5-15.
Track 1 Defendants	46:5-48:11	<u>Objection:</u> FRE 403.
Track 1 Defendants	49:17-52:11	<u>Objection:</u> FRE 403.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	61:7-64:7	<u>Objection</u> : FRE 403.
Track 1 Defendants	66:21-67:14	<u>Objection</u> : FRE 403.
Track 1 Defendants	72:3-75:17	<u>Objection</u> : FRE 403.
Track 1 Defendants	78:17-79:7	<u>Objection</u> : FRE 403.
Track 1 Defendants	87:18-89:11	<u>Objection</u> : FRE 403.
Track 1 Defendants	98:13-101:15	<u>Objection</u> : FRE 403.
Track 1 Defendants	103:9-105:8	<u>Objection</u> : FRE 403.

41. Denise DeMaina, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 5, 2006 Transcript: 5:9-6:14	
Track 1 Defendants	7:11-9:12	
Track 1 Defendants	13:16-14:22	<u>Objection</u> : FRE 402 & 602 – Witness previously testified that she lacks knowledge/no foundation; Beyond the relevant time at issue in this case. <u>Counter Designation</u> : 13:4-15; 11:13-12:10
Track 1 Defendants	15:21-16:19	<u>Objection</u> : FRE 402 – Beyond the relevant time period at issue in the case.
Track 1 Defendants	19:1-17	<u>Objection</u> : FRE 402 – Beyond the relevant time period at issue in the case. <u>Counter Designation</u> : 20:12-13
Track 1 Defendants	21:11-22:14	
Track 1 Defendants	23:4-25:6	
Track 1 Defendants	25:14-26:3	
Track 1 Defendants	26:7-11	
Track 1 Defendants	27:5-13	
Track 1 Defendants	27:17-28:1	
Track 1 Defendants	28:4-11	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	29:12-22	
Track 1 Defendants	30:5-13	<u>Counter Designation:</u> 30:1-4; 30:14-19
Track 1 Defendants	30:20-31:11	
Track 1 Defendants	31:15-22	
Track 1 Defendants	34:20-35:13	<u>Counter Designation:</u> 35:14-18
Track 1 Defendants	36:6-37:8	
Track 1 Defendants	37:13-38:2	
Track 1 Defendants	38:19-39:8	<u>Counter Designation:</u> 39:9-14
Track 1 Defendants	39:15-42:10	
Track 1 Defendants	42:17-43:3	<u>Counter Designation:</u> 43:5-6
Track 1 Defendants	43:9-43:21	<u>Counter Designation:</u> 43:22-44:4
Track 1 Defendants	44:13-46:18	<u>Objection:</u> FRE 402 – Not relevant because it does not involve a PAD. <u>Counter Designation:</u> 47:1-3
Track 1 Defendants	47:4-7	<u>Counter Designation:</u> 47:15-22; 48:4-7
Track 1 Defendants	48:1-3	<u>Counter Designation:</u> 48:13-49:3
Track 1 Defendants	48:8-12	
Track 1 Defendants	49:4-50:8	
Track 1 Defendants	50:15-17	
Track 1 Defendants	50:21-51:1	<u>Counter Designation:</u> 51:2-3; 51:9-18
Track 1 Defendants	53:15-54:20	<u>Objection:</u> Broad questions about the nature of the audits are not relevant.
Track 1 Defendants	56:16-57:2	<u>Counter Designation:</u> 55:22-56:14
Track 1 Defendants	57:14-62:9	<u>Objection:</u> FRE 402 – Testimony at 57:14-60:11 is not during the relevant time period. <u>Counter Designation:</u> 57:3-13
Track 1 Defendants	63:1-7	<u>Objection:</u> FRE 402 – Discussion of claims processing software not relevant.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	64:8-65:7	<u>Objection</u> : FRE 402 – Discussion of claims processing software not relevant.
Track 1 Defendants	66:18-69:3	<u>Objection</u> : FRE 402 – Discussion of claims processing software not relevant. <u>Counter Designation</u> : 69:4-11
Track 1 Defendants	70:12-71:4	
Track 1 Defendants	73:7-74:9	<u>Objection</u> : FRE 602 – Witness prior testimony evidences a lack of knowledge on this topic of J-Codes. <u>Counter Designation</u> : 71:22-72:20
Track 1 Defendants	74:13-22	<u>Objection</u> : FRE 602 – Witness lacks knowledge and is speculating.
Track 1 Defendants	75:5-13	
Track 1 Defendants	76:17-77:11	
Track 1 Defendants	78:1-7	<u>Counter Designation</u> : 78:18-21
Track 1 Defendants	78:11-80:10	<u>Counter Designation</u> : 78:18-21; 80:16-19
Track 1 Defendants	79:3-6	<u>Objection</u> : FRE 402 – Computer software not relevant.
Track 1 Defendants	80:20-81:1	<u>Objection</u> : FRE 402 – Computer software not relevant.
Track 1 Defendants	81:6-20	<u>Objection</u> : FRE 402 – Computer software not relevant.
Track 1 Defendants	82:15-21	<u>Counter Designation</u> : 83:3-21
Track 1 Defendants	84:12-15	
Track 1 Defendants	84:20-85:3	<u>Objection</u> : FRE 901 – Exhibit not properly authenticated.
Track 1 Defendants	85:17-86:12	<u>Objection</u> : FRE 901 – Exhibit not properly authenticated.
Track 1 Defendants	86:16-102:19	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	103:4-106:9	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	107:4-109:22	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	110:3-13	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	111:11-113:7	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	113:12-114:2	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	114:20-115:9	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.
Track 1 Defendants	116:5-123:9	<u>Objection</u> : FRE 402 – Discussion of data fields not relevant.

42. Michael Mulrey, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 2, 2006 Transcript: 5:12-20	
Track 1 Defendants	7:13-19	<u>Counter Designation</u> : 7:20-8:8
Track 1 Defendants	10:8-18	
Track 1 Defendants	12:9-15:12	
Track 1 Defendants	16:1-17:22	
Track 1 Defendants	21:15-25:9	
Track 1 Defendants	26:17-21	
Track 1 Defendants	28:8-32:3	<u>Objection</u> : Vague and Ambiguous Question (31:3-13).
Track 1 Defendants	32:11-33:13	
Track 1 Defendants	35:9-39:20	
Track 1 Defendants	40:3-14	
Track 1 Defendants	42:15-46:5	
Track 1 Defendants	47:11-48:6	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	49:1-50:18	
Track 1 Defendants	51:22-60:2	
Track 1 Defendants	60:8-69:19	<u>Objection:</u> Leading, Vague and Ambiguous (66:22-67:5). Leading, Assumes Facts Not in Evidence (68:14-69:8). <u>Counter Designation:</u> 69:20-70:17
Track 1 Defendants	71:9-73:8	<u>Objection:</u> Mischaracterizes Prior Testimony, Assumes Facts Not in Evidence, Lack of Foundation (71:9-21). Mischaracterizes Prior Testimony (71:22-72:5).
Track 1 Defendants	74:21-77:5	<u>Objection:</u> Mischaracterizes Prior Testimony (77:3-5).
Track 1 Defendants	95:3-20	<u>Counter Designation:</u> 94:7-22
Track 1 Defendants	96:15-105:4	<u>Objection:</u> Lack of Foundation (100:17-101:1).
Track 1 Defendants	105:9-111:7	<u>Objection:</u> Mischaracterizes Prior Testimony (105:9-20).
Track 1 Defendants	120:5-18	<u>Counter Designation:</u> 119:19-120:4
Track 1 Defendants	123:3-124:8	
Track 1 Defendants	129:22-130:12	<u>Counter Designation:</u> 129:13-21
Track 1 Defendants	133:22-137:11	
Track 1 Defendants	138:16-139:4	
Track 1 Defendants	October 5, 2006 Transcript: 149:17-153:7	
Track 1 Defendants	155:9-158:19	<u>Counter Designation:</u> 159:14-19
Track 1 Defendants	164:8-168:5	
Track 1 Defendants	168:21-172:22	
Track 1 Defendants	173:15-186:15	
Track 1 Defendants	189:5-192:6	<u>Objection:</u> Lack of Foundation (191:1-17).
Track 1 Defendants	194:14-195:15	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	196:6-200:3	
Track 1 Defendants	201:9-202:4	
Track 1 Defendants	204:19-205:8	
Track 1 Defendants	210:2-211:17	
Track 1 Defendants	214:6-223:9	<u>Counter Designation:</u> 224:5-21
Track 1 Defendants	224:22-248:2	<u>Objection:</u> Lack of Foundation, Mischaracterizes Prior Testimony (224:22-225:4).
		Lack of Foundation, Assumes Facts Not in Evidence (229:2-8; 229:13-17).
		Outside of Scope of Deposition Notice (232:6-17).
		Lack of Foundation, Assumes Facts Not in Evidence (233:5-13).
Track 1 Defendants	250:1-16	
Track 1 Defendants	251:6-252:4	<u>Counter Designation:</u> 252:6-20
Track 1 Defendants	253:1-269:7	<u>Objection:</u> Leading, Mischaracterizes Prior Testimony (253:21-254:5).
		Vague and Ambiguous (255:7-8).
		Assumes Facts Not in Evidence (264:7-12).
Track 1 Defendants	271:12-275:10	
Track 1 Defendants	279:18-281:4	<u>Objection:</u> Outside Scope of Deposition, Vague and Ambiguous (279:18-280:5).

43. John Killion, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 6, 2006 Transcript: 6:7-7:5	
Track 1 Defendants	7:15-8:3	
Track 1 Defendants	8:11-10:14	
Track 1 Defendants	10:22-12:21	<u>Objection:</u> FRE 402 – Relevance. Specialty Pharmacy Program started in 2004-2005.
Track 1 Defendants	13:6-14:3	
Track 1 Defendants	17:21-18:15	
Track 1 Defendants	18:19-39:4	<u>Objection:</u> FRE 402 – Relevance. At 24:21-31:4 witness is testifying regarding projects he was conducting while employed at Tufts – not BCBS MA. At 32:7-37:8 witness is testifying regarding projects while employed at Harvard Pilgrim.
Track 1 Defendants	40:19-46:5	<u>Objection:</u> FRE 602 – Foundation. <u>Objection</u> to 43:19; 44:3; 44:18; 45:4; 45:18; 46:2: FRE 611 – Questions are leading. <u>Objection</u> to 43:19; 45:18; 46:2: FRE 611 – Questions are argumentative. <u>Counter Designation:</u> 46:6-10; 46:15-16
Track 1 Defendants	47:1-51:18	
Track 1 Defendants	56:18-59:15	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding payments to hospitals and physicians for services and quality control measures – not regarding reimbursement for pharmaceuticals.
Track 1 Defendants	59:18-20	
Track 1 Defendants	60:14-61:11	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	61:20-64:1	<u>Objection:</u> FRE 402 – Relevance. Testimony at 62:5 is laying foundation for Exhibit 001 which is irrelevant as it is not Defendants' Trial Exhibit. FRE 602 – Foundation. At 62:17 witness testifies he is not familiar with MASCO oncology specialty committee.
Track 1 Defendants	65:15-67:22	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding Exhibit 001 is not relevant because document is not in evidence. At 66:15-67:15 witness testifies he was not involved in project.
Track 1 Defendants	68:12-19	
Track 1 Defendants	69:17-73:15	<u>Objection to</u> 69:17: FRE 602 – Foundation. Witness is being asked to speculate. <u>Objection to</u> 72:10-73:15: FRE 402 – Relevance. Witness is testifying regarding his understanding of Specialty Pharmacy while at Tufts.
Track 1 Defendants	74:11-81:1	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding who prepared RFP is vague as to whether it is Tufts or BCBS MA. <u>Objection to</u> 75:14-80:1: FRE 402 - Testimony is not relevant.
Track 1 Defendants	81:14-85:10	<u>Objection:</u> FRE 402 – Relevance.
Track 1 Defendants	85:21-88:16	<u>Objection:</u> FRE 402 – Relevance. Exhibit 002 is not bates stamped. Testimony regarding document is not relevant.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	89:2-98:14	<p><u>Objection:</u> FRE 602 – Foundation. Basis of his understanding of industry standard at 89:2-14 is not established. FRE 402 – Relevance. Testimony establishing foundation for Exhibit 002 is irrelevant as document is not included in record. Testimony regarding BCBS MA Specialty Pharmacy is irrelevant. Testimony at 94:12 regarding Harvard Pilgrim is not relevant.</p> <p><u>Objection</u> to 93:11; 93:22; 95:4; 98:2: FRE 611 – Leading.</p> <p><u>Objection</u> to 94:6–95:15; 91:6-92:8: FRE 802 – Hearsay.</p> <p>Testimony regarding Exhibit 002, Jan Cook Memo, Harvard Pilgrim Specialty Pharmacy Program are not relevant.</p>
Track 1 Defendants	100:17-106:11	<p><u>Objection</u> to 101:2-106:11: FRE 602 – Foundation.</p> <p>Testifies he is not involved in committee but proceeds to answer.</p> <p><u>Objection</u> to 104:21–106:11: FRE 402 – Relevance.</p> <p>Testimony relates to Gonal F.</p>
Track 1 Defendants	108:14-114:16	<p><u>Objection:</u> FRE 402 – Relevance. Killion 002 is not part of the record and Specialty Pharmacy is irrelevant to case.</p> <p><u>Objection</u> to 111:16-114:3: FRE 403 – Cumulative. Third time decision to defer oncology program is addressed.</p>
Track 1 Defendants	116:22-117:3	<p><u>Counter Designation:</u> 117:4-13 and 117:7-118:3</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	118:4-124:11	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding conversations while an employee at Tufts regarding AWP and programs initiated while witness was a Tufts employee. <u>Objection</u> to 119:13; 119:17; 119:21; 120:1; 121:5; 121:12; 121:15; 122:1; 122:9; 122:18; 123:1: FRE 611 – Leading. <u>Objection</u> to 121:12: FRE 611 – Argumentative.
Track 1 Defendants	125:3-21	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding witness understanding while an employee at Tufts is not relevant.
Track 1 Defendants	126:9-15	<u>Objection:</u> FRE 402 – Relevance. Testimony regarding witness understanding while an employee at Tufts is not relevant.
Track 1 Defendants	136:20-137:5	<u>Objection:</u> FRE 802 – Hearsay. FRE 402 – Relevance. Testimony relates to conversations while witness was employed at Tufts. <u>Counter Designation:</u> 136:7-17
Track 1 Defendants	138:17-139:5	<u>Objection:</u> FRE 802 – Hearsay. FRE 402 – Relevance. Testimony relates to conversations while witness was employed at Tufts.

44. Jan Cook, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	March 6, 2006 Transcript: 35:16-36:21	
Track 1 Defendants	42:9-16	
Track 1 Defendants	60:7-81:17	<u>Objection</u> to 60:7-79:16: FRE 402 – Irrelevant. Testimony relates to P&T committee and formularies which do not include physician administered drugs. <u>Counter Designation:</u> 79:6-16
Track 1 Defendants	90:21-91:20	<u>Objection:</u> FRE 602 – Witness does not have personal knowledge of indemnity plans. <u>Counter Designation:</u> 89:6-90:20
Track 1 Defendants	92:11-95:12	
Track 1 Defendants	96:12-100:12	<u>Objection:</u> FRE 106 – Vague, ambiguous. Context of questions and answers not given. <u>Counter Designation:</u> 95:20-96:11 <u>Objection</u> to 97:10-20: FRE 802 – Refers to a document not in evidence.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	100:22-106:5	
Track 1 Defendants	125:20-126:10	<p><u>Objection:</u> FRE 602 – No personal knowledge. FRE 802 – Riverbend capitated programs irrelevant.</p> <p><u>Counter Designation:</u> 126:11-128:17</p>
Track 1 Defendants	132:16-141:5	<p><u>Objection:</u> FRE 602 – Witness has no personal knowledge and testifies repeatedly that “I didn’t give it [AWP] much thought.” Witness not involved in payment policy.</p> <p><u>Counter Designation:</u> 106:15-109:3</p>
Track 1 Defendants	147:12-149:7	
Track 1 Defendants	156:10-158:14	
Track 1 Defendants	162:12-170:5	<p><u>Objection to</u> 162:19-167:7: FRE 802 – Hearsay not subject to any exception. Witness is relating what MASCO, a non-party, communicated to BCBS MA. FRE 805 – Hearsay within hearsay to extent witness relates what non-party communicated to BCBS MA personnel other than her.</p> <p><u>Objection to</u> 169:17-170:5: FRE 602 – No personal knowledge.</p> <p><u>Counter Designation:</u> 173:5-174:1</p>
Track 1 Defendants	174:17-175:14	<p><u>Objection to</u> 175:8-14: FRE 802 – Hearsay not subject to any exception. FRE 805 – Hearsay within hearsay not subject to any exception.</p>
Track 1 Defendants	179:1-180:15	<p><u>Objection to</u> 179:1-15: FRE 602 – No personal knowledge.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	190:11-193:11	<u>Objection</u> : FRE 602 – No personal knowledge as to providers' willingness. Witness not an expert as to "leverage" of health care providers v. BCBS MA. <u>Objection</u> : FRE 611(c) – Leading questions.
Track 1 Defendants	200:10-209:20	<u>Objection</u> to 200:10-201:9: FRE 402 – Irrelevant. BCBS MA 1994 settlement with federal government not relevant. FRE 602 – Witness has no personal knowledge of settlement. <u>Objection</u> to 201:19-202:14: FRE 602 – No personal knowledge. <u>Objection</u> to 202:17-209:20: FRE 602 – No personal knowledge. Witness does not recall the contents or the articles referenced. FRE 802 – Email is hearsay and not subject to any exception (e.g., not established as a business record).
Track 1 Defendants	213:11-214:5	<u>Objection</u> to Exhibit 3: Witness does not recall memo. FRE 802 – counsel does not authenticate document or establish its admissibility as exception to the hearsay rule.
Track 1 Defendants	221:8-223:21	
Track 1 Defendants	230:20-231:1	
Track 1 Defendants	234:1-4	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	236:15-244:12	<u>Objection</u> to Exhibit 5: FRE 802 – No authentication or admissibility established by witness. <u>Objection</u> to 238:3-10: FRE 802 – Hearsay <u>Objection</u> to 240:15-241:8; 242:6-244:12: FRE 802 – Hearsay not subject to any exception.
Track 1 Defendants	246:3-18	<u>Objection</u> : Question vague and ambiguous (“the change” is undefined). FRE 602 – No Personal knowledge. FRE 802 – Refers to a document not properly admitted (not authenticated). No exception to hearsay established.
Track 1 Defendants	261:2-267:1	<u>Objection</u> : FRE 611 – Leading. FRE 802 – Hearsay not subject to any exception. FRE 805 – Hearsay within hearsay and not subject to any exception. <u>Objection</u> to Exhibit 9: FRE 802 – not properly admitted (not authenticated).

45. Steven Fox, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	March 8, 3006 Transcript: 12:4-15:21	<u>Objection:</u> FRE 611 – Leading questions (13:16-20; 14:1-8; 15:5-8; 15:10; 15:17-18)
Track 1 Defendants	21:7-17	<u>Counter Designation:</u> 30:3-14
Track 1 Defendants	48:4-61:20	<u>Objection:</u> FRE 611 – Leading and argumentative (51:21-52:1; 52:14-16; 52:19; 53:1-2; 53:5-7; 55:9-11; 55:14-17; 56:1-2; 56:8-14; 56:16; 56:20; 57:16-20; 60:9-11) <u>Objection:</u> FRE 402 – Relevance. Vague Questions (54:19; 61:47) <u>Objection:</u> FRE 602 – Foundation (61:4-5), no basis established that witness “became aware”
Track 1 Defendants	64:2-20	
Track 1 Defendants	66:10-68:21	<u>Objection:</u> FRE 402 – Relevance. Testimony re: basis for physician reimbursement in 2006 is irrelevant since not based on AWP. Testimony re: physician fees for service is irrelevant. <u>Objection:</u> FRE 611 – Leading (67:14-19; 68:2-5; 68:14-15)

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	77:14-78:13	<u>Objection:</u> FRE 402 – Relevance. Testimony at 77:14 does not pertain to physician reimbursement for pharmaceuticals; question is vague and compound. Testimony at 78:2 does not pertain to reimbursement for pharmaceuticals.
Track 1 Defendants	80:11-83:14	<u>Objection:</u> FRE 402 – Relevance. Testimony does not pertain to physician reimbursement for pharmaceuticals. <u>Objection:</u> FRE 611 – Leading (81:2-10)
Track 1 Defendants	84:8-86:9	<u>Objection:</u> FRE 402 – Relevance. Testimony does not pertain to physician reimbursement for pharmaceuticals. <u>Objection:</u> 602 – Foundation (85:7-9, 85:15-18). Witness does not know whether it is just for services or for drugs and services. <u>Objection:</u> FRE 611 – Leading (85:10-13; 85:19; 86:3-7).
Track 1 Defendants	92:5-96:12	<u>Objection:</u> FRE 402 – Relevance. Testimony regards payment for physician services not reimbursement for pharmaceuticals. <u>Objection:</u> 602 – Foundation Does not appear from answer at 94:4 that witness understood question. <u>Objection:</u> FRE 611 – Leading (93:5-7, compound; 94:9-13, argumentative). <u>Objection:</u> FRE 106 – incomplete answer at 96:2-12. <u>Counter Designation:</u> 96:12-14

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	101:4-110:15	<u>Objection:</u> FRE 402 – Relevance. Testimony regards reimbursement for physician services not for pharmaceuticals. <u>Objection:</u> 602 – Foundation. Witness does not know (101:8); witness is not sure (102:20-103:4). <u>Objection:</u> FRE 611 – Leading (101:13-15; 102:5-9, compound; 102:14-18; 103:9-11, compound; 104:8-9; 104:17-20, compound; 105:16-20; 106:1-4; 106:7-9; 106:11; 106:13-17, compound; 106:21-22, compound; 108:1-5; 108:10-11; 108:14-15; 109:8-11)
Track 1 Defendants	112:6-113:5	<u>Objection:</u> FRE 611 – Leading questions
Track 1 Defendants	115:16-116:20	<u>Objection:</u> FRE 611 – Leading (115:16-19, argumentative; 116:1-2; 116:9-11, blatant attempt to misstate witness' testimony; 116:17-18).
Track 1 Defendants	123:1-7	<u>Objection:</u> FRE 611 – Leading question
Track 1 Defendants	123:18-22	<u>Objection:</u> FRE 611 – Leading question
Track 1 Defendants	125:20-135:3	<u>Objection:</u> FRE 402 – Relevance. Witness' testimony is unclear as to time period when he became aware that AWP was inflated. <u>Objection:</u> FRE 611 – Leading questions (127:11-12; 130:3-7; 130:12-18). <u>Counter Designation:</u> 137:14-21

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	141:5-150:3	<p><u>Objection:</u> 602 – Foundation. Basis for witness knowing what physician's acquisition cost is (141:5-19); strike answer from 141:15-20, ending with “them.” Basis for witness knowing what physicians pay, misstates his testimony, witness says he does not have those conversations (150:11-151:19).</p> <p><u>Objection:</u> FRE 611 – Leading questions at 142:19; 143:10 (compound, argumentative); 145:20; 146:7; 146:15; 146:18 (vague); 146:22 (argumentative); 147:4 (compound); 147:14; 147:20 (compound, argumentative); 148:8 (compound, argumentative); 148:18; 148:22 (compound, argumentative); 149:8 (compound, argumentative); 149:13. This whole section is harassing the witness.</p> <p><u>Objection:</u> FRE 802 – Hearsay (146:7)</p>
Track 1 Defendants	150:6-152:14	<p><u>Objection:</u> FRE 611 – Leading questions at 150:6; 151:9 (argumentative); 150:11; 151:20 (argumentative). This whole section also misstates testimony and is harassing.</p> <p><u>Objection:</u> FRE 802 – Hearsay (150:11; 151:9; 151:20), asking witness for conversations he had with physicians</p>
Track 1 Defendants	155:19-156:7	<p><u>Objection:</u> FRE 402 – Relevance. Witness' only testimony is he is familiar with OIG, does not lay foundation for Fox 2.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	165:13-169:3	<u>Objection:</u> FRE 611 – Leading questions at 165:13; 165:20; 168:13; 167:22 (misstates witness testimony, argumentative) <u>Objection:</u> FRE 602 – Foundation. Testimony at 165:20-166:13, witness does not have schedules in front of him, can't answer; 166:22-167:9, witness is asked to testify to BCBSMA's "state of mind" for setting reimbursement; 168:19-169:3, witness' earlier answer was he did not have schedules, so couldn't answer
Track 1 Defendants	172:4-211:2	<u>Objection:</u> FRE 402 – Relevance. Examined on document not in evidence (155:19; 187:16) <u>Objection:</u> FRE 612 – Refreshing recollection, witness testified he did not know, not that he didn't remember (155:19) <u>Objection:</u> FRE 602 – Foundation. Asking witness to assume, speculate (178:6; 178:21, 179:5; 179:12; 179:17; 180:4; 180:11; 180:15; 181:19; 182:8; 182:22; 183:8; 183:19; 184:7; 184:15; 185:1; 185:7; 185:19; 186:5; 186:16; 187:9; 192:7; 192:12; 192:18 (not established a decision has been made); 193:21; 194:9 (misstates testimony); 195:16 (witness asked to speculate); 195:22; 197-204 (reference page being discussed not stated); 199:17; 200:12; 201:4; 201:9; 202:1; 203:14; 203:21; 204:9; 204:14; 204:20; 205:1; 205:7; 205:10; 205:15; 205:17; 207:12;

Offering Party	Designation Range	Objection/Counter Designation
		210:12). <u>Objection:</u> FRE 611 – Leading, argumentative and harassing questions at 173:22; 174:14; 175:14; 175:17; 175:22; 176:6; 176:19 (argumentative); 176:11; 176:17; 176:19 (argumentative); 177:9; 177:21; 178:6; 179:5 (argumentative); 179:17; 180:4; 180:11; 180:15; 181:19; 183:10; 180:4; 182:22; 183:8; 183:19; 184:7; 184:15; 185:1; 185:7; 185:19; 186:1; 186:5; 186:16; 187:9; 189:5; 189:17; 191:11; 192:7; 192:12; 192:18; 193:12; 193:18; 193:21; 194:9; 194:19; 195:16; 195:22; 196:15 (witness did not finish answer); 197:6; 197:12; 197:15; 197:17; 197:21; 198:10; 198:14; 199:9; 199:13; 199:17; 200:1; 202:8; 202:20; 203:11; 203:21; 204:9; 206:7; 206:19; 207:2; 207:5 (counsel is apparently misstating what document says)).
Track 1 Defendants	220:10-225:8	<u>Objection:</u> FRE 611 – Leading questions at 220:13; 220:17; 221:2; 221:10; 221:17; 222:6; 223:5. <u>Objection:</u> FRE 602 – Foundation (222:18; 223:5)
Track 1 Defendants	238:19-239:14	
Track 1 Defendants	246:20-247:19	<u>Objection:</u> FRE 602 – Foundation, asking witness to speculate (247:10)
Track 1 Defendants	248:7-14	
Track 1 Defendants	258:15-261:19	<u>Objection:</u> FRE 611 – Leading questions at 259:9; 259:21; 260:13.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	271:8-273:8	<u>Objection:</u> FRE 602 – Foundation, asking witness to speculate as to Cook's mental state (272:12) <u>Counter Designation:</u> 286:4-7
Track 1 Defendants	291:19-292:10	<u>Objection:</u> FRE 402 – Relevance. <u>Objection:</u> FRE 602 – Foundation, asking witness to speculate whether he could duplicate information reporter obtained as part of a news article.
Track 1 Defendants	309:22-310:2	
Track 1 Defendants	314:18-315:20	<u>Objection:</u> FRE 602 – Foundation, witness being asked to speculate (315:5).
Track 1 Defendants	360:17-361:18	<u>Objection:</u> FRE 402 – Relevance. Counsel is attempting to correlate inflated AWP to a car's sticker price.

46. Deborah Devaux, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	March 9, 2006 Transcript: 9:13-59:20	<u>Objection:</u> FRE 401 – Relevance, Assumes Facts Not in Evidence (18:16-19:1); Relevance – 20:12-21:19; 27:4-19; 28:6-20; 31:15-32:21; 35:14-36:9; 40:1-42:17; 43:18-45:7; 46:20-48:1; 50:4-21
Track 1 Defendants	76:4-89:14	<u>Objection:</u> FRE 401 –Relevance 77:13-84:11; 86:4-89:14 <u>Counter Designation:</u> 72:21-75:1; 94:16-96:5
Track 1 Defendants	98:21-102:22	<u>Objection:</u> FRE 401 –Relevance 98:21-102:13
Track 1 Defendants	117:9-121:15	
Track 1 Defendants	128:4-129:14	
Track 1 Defendants	129:20-131:8	
Track 1 Defendants	134:4-136:15	<u>Objection:</u> Vague and Ambiguous (134:4-7; 134:20-135:2)
Track 1 Defendants	155:13-199:22	
Track 1 Defendants	217:1-219:10	<u>Counter Designation:</u> 219:11-22
Track 1 Defendants	231:2-237:10	
Track 1 Defendants	237:13-242:20	<u>Counter Designation:</u> 242:21-243:8
Track 1 Defendants	245:13-246:1	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	255:13-258:5	
Track 1 Defendants	273:14-20	
Track 1 Defendants	278:3-16	<u>Counter Designation:</u> 277:19-278:2
Track 1 Defendants	278:19-295:15	<u>Objection:</u> FRE 401 –Relevance

47. Sheila Cizauskas, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	March 10, 2006 Transcript: 9:3-16	
Track 1 Defendants	27:9-29:4	<u>Objection:</u> FRE 602 – no personal knowledge. <u>Objection:</u> FRE 402 – Relevance. Private Health Care Systems irrelevant to this suit. <u>Objection:</u> 27:9-11 – vague; ambiguous; no context provided.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	36:19-38:8	<p><u>Objection:</u> FRE 402 – Relevance. CIGNA and private Health Care Systems are irrelevant to this suit. Reimbursement for services irrelevant to lawsuit; witness testified she knows nothing about reimbursement for physician-administered drugs; involved in fee-for-service only.</p> <p><u>Objection:</u> FRE 602 – no foundation established for testimony re: reimbursement rates.</p> <p><u>Counter Designation:</u> 38:10-39:4</p>
Track 1 Defendants	44:10-16	
Track 1 Defendants	49:1-52:4	<p><u>Objection:</u> FRE 402 – Relevancy. Harvard Pilgrim irrelevant; Private Health Care Systems irrelevant; fee-for-service contracting irrelevant.</p>
Track 1 Defendants	63:5-17	<p><u>Objection:</u> FRE 402 – Relevancy. Harvard Pilgrim Health Care irrelevant.</p>
Track 1 Defendants	81:21-82:18	<p><u>Objection:</u> FRE 602 – personal knowledge not established.</p> <p><u>Objection:</u> Question is vague, ambiguous to extent it uses term “the transition.”</p> <p><u>Objection:</u> FRE 402 – Irrelevant as relates to Harvard Pilgrim Health Care.</p> <p><u>Objection:</u> FRE 802 – Hearsay. No exception established; question mischaracterizes testimony (82:9-15).</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	114:17-115:8	<u>Objection</u> : FRE 402 – Irrelevant as relates to Harvard Pilgrim Health Care. <u>Objection</u> : FRE 602 – witness has no personal knowledge as to how BCBS MA reimburses for drugs administered in their offices. She knows nothing about reimbursement for physician-administered drugs or drug pricing or pricing “benchmarks”; no foundation established <u>Counter Designation</u> : 113:16-114:13; 118:21-119:1; 227:15-228:5
Track 1 Defendants	117:7-11	
Track 1 Defendants	123:7-124:19	<u>Objection</u> : FRE 402 – Irrelevant as to hospital outpatient drug reimbursement
Track 1 Defendants	124:20-128:14	<u>Objection</u> : FRE 402 – Irrelevant as to hospital outpatient drug reimbursement <u>Objection</u> : FRE 611 – Leading questions at 125:21-126:6
Track 1 Defendants	131:15-22	<u>Objection</u> : FRE 402 – Relevance
Track 1 Defendants	133:13-20	<u>Objection</u> : FRE 402 – Relevance
Track 1 Defendants	136:12-137:2	<u>Counter Designation</u> : 136:3-11
Track 1 Defendants	139:7-141:19	<u>Counter Designation</u> : 141:20-144:8
Track 1 Defendants	145:4-148:8	<u>Objection</u> : FRE 602 – personal knowledge not established
Track 1 Defendants	150:8-151:16	<u>Counter Designation</u> : 151:17-152:12
Track 1 Defendants	152:13-153:2	<u>Counter Designation</u> : 153:3-9
Track 1 Defendants	159:6-161:8	
Track 1 Defendants	165:8-166:5	<u>Objection</u> : FRE 402 – Relevance
Track 1 Defendants	172:4-173:12	
Track 1 Defendants	173:18-178:13	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	178:14-22	
Track 1 Defendants	180:21-181:3	
Track 1 Defendants	183:1-18	
Track 1 Defendants	186:18-187:2	
Track 1 Defendants	187:12-190:19	
Track 1 Defendants	197:16-199:15	
Track 1 Defendants	200:3-202:22	
Track 1 Defendants	203:11-13	
Track 1 Defendants	204:4-18	
Track 1 Defendants	206:19-208:9	
Track 1 Defendants	208:13-15	
Track 1 Defendants	212:1-20	
Track 1 Defendants	214:11-21	
Track 1 Defendants	219:11-16	<u>Objection</u> : FRE 602 – No foundation; no context provided. <u>Objection</u> : FRE 402 – Irrelevant as to shortfall payment
Track 1 Defendants	222:4-223:10	

48. Sharon Smith, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection:</u> Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not and officer, director or 30b6 designee under Fed. R. Civ. P. 32.
Track 1 Defendants	April 14, 2006 Transcript: 7:1-8	
Track 1 Defendants	10:7-13:16	
Track 1 Defendants	19:7-22:5	
Track 1 Defendants	22:13-17	
Track 1 Defendants	24:7-25:17	
Track 1 Defendants	29:17-32:6	<u>Objection:</u> FRE 402 – Irrelevant. Exhibit and testimony relate to Tagament. Objection: FRE 602 – No personal knowledge. Witness indicates she did not play any role in drug purchase contracts other than signing.
Track 1 Defendants	33:3-7	
Track 1 Defendants	35:20-36:9	
Track 1 Defendants	40:3-6	
Track 1 Defendants	41:19-42:10	
Track 1 Defendants	47:3-22	
Track 1 Defendants	55:4-19	
Track 1 Defendants	64:17-19	
Track 1 Defendants	69:2-71:8	<u>Objection:</u> FRE 402 – Irrelevant. Incomplete. Vague. Ambiguous.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	75:16-76:3	
Track 1 Defendants	86:15-87:3	
Track 1 Defendants	91:3-93:15	
Track 1 Defendants	107:5-110:7	<p><u>Objection:</u> FRE 402 – Irrelevant. Relates to shortfall payments to hospitals for services.</p> <p><u>Objection:</u> FRE 802 – Hearsay, not subject to any exception (109:9-19).</p>

49. James Fanale, Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
		<p><u>Objection:</u></p> <p>Plaintiffs object to the use of deposition testimony, this witness is within the subpoena power of the court and a deposition cannot be used as it is hearsay and not within any hearsay exception provided by the Federal Rules of Evidence or Federal Rule of Civil Procedure 32. The witness is not an officer, director or 30b6 designee under Fed. R. Civ. P. 32.</p>
Track 1 Defendants	June 9, 2006 Transcript: 7:20-22	
Track 1 Defendants	19:3-20:21	
Track 1 Defendants	20:22-27:11	<p><u>Objection:</u> FRE 402. Discussion/ testimony about non BCBS Mass. employment is not relevant. Relevant testimony relates to time at BCBS Mass (1999-2003).</p> <p><u>Counter Designation:</u> 20:16-21:16</p>
Track 1 Defendants	42:6-20	<u>Counter Designation:</u> 40:9-12

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	56:18-58:10	<u>Counter Designation:</u> 59:14-60:21; 62:3-22; 65:4-66:16
Track 1 Defendants	73:22-81:18	<u>Counter Designation:</u> 81:19-83:8 <u>Objection:</u> 78:16-17 comment, not a question
Track 1 Defendants	84:13-86:16	<u>Objection:</u> FRE 602. Witness lacks foundation and previously testified that he had no knowledge or pricing related to PADS and would not be knowledgeable about oncologist profit from PADS. Speculation. <u>Objection:</u> FRE 802 – Hearsay <u>Counter Designation:</u> 23:4-24:5; 26:4-22; 31:20-32:7; 86:17-87:3
Track 1 Defendants	87:12-89:9	<u>Objection:</u> FRE 602. Witness lacks foundation and previously testified that he had no knowledge or pricing related to PADS and would not be knowledgeable about oncologist profit from PADS. Speculation. <u>Objection:</u> FRE 802 – Hearsay <u>Counter Designation:</u> 23:4-24:5; 26:4-22; 31:20-32:7; 86:17-87:3; 89:10-90:19; 92:9-22; 93:22-95:3
Track 1 Defendants	91:22-92:8	<u>Objection:</u> FRE 602. Lack of foundation
Track 1 Defendants	95:4-96:15	<u>Objection:</u> FRE 602. Lack of foundation; speculation <u>Counter Designation:</u> 23:4-24:5; 26:4-22; 31:20-32:7; 86:17-87:3; 93:22-95:3; 102:17-103:7
Track 1 Defendants	98:21-99:8	<u>Objection:</u> Vague <u>Counter Designation:</u> 99:9-100:14
Track 1 Defendants	112:12-113:12	<u>Counter Designation:</u> 113:13-15

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	114:10-19	<u>Objection</u> : FRE 402. Generic drugs not relevant to this case.
Track 1 Defendants	116:13-117:13	<u>Counter Designation</u> : 118:9-119:4
Track 1 Defendants	120:4-121:11	<u>Objection</u> : FRE 602. Previously testified that he did not actively participate in pricing <u>Counter Designation</u> : 23:4-24:5; 26:4-22; 31:20-32:7; 86:17-87:3
Track 1 Defendants	129:22-131:12	<u>Objection</u> : FRE 602 – lack of foundation; speculation. <u>Counter Designation</u> : 113:13-15
Track 1 Defendants	132:1-20	
Track 1 Defendants	133:7-138:5	<u>Objection</u> (133:7-135:12): FRE 602 <u>Objection</u> (133:7-135:12): FRE 802 – Hearsay as it relates to “the general feel on the street” and what third parties told witness. <u>Objection</u> : FRE 402 – irrelevant (137:15-138:5)
Track 1 Defendants	139:16-140:7	<u>Objection</u> : FRE 402 – physician services rates irrelevant
Track 1 Defendants	148:1-153:11	<u>Objection</u> : FRE 802 Hearsay <u>Objection</u> : FRE 805 Hearsay within hearsay (148:7-11, 149:12-16; 150:16-151:6) <u>Objection</u> : FRE 611 – Leading, no question (151:12-13) <u>Objection</u> : 151:14-153:11 Non responsive
Track 1 Defendants	155:12-156:15	<u>Objection</u> : FRE 402 – Physician services fee irrelevant
Track 1 Defendants	173:9-20	<u>Objection</u> : FRE 402 – Physician services rates irrelevant
Track 1 Defendants	184:14-187:13	<u>Objection</u> : FRE 402 – Physician services reimbursement irrelevant (184:14-185:12) <u>Objection</u> : FRE 602 – Witness testified he was not involved in pricing (185:13-187:13)

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	189:5-191:7	<u>Objection</u> : Exhibit 8 not designated as a trial exhibit. <u>Objection</u> : FRE 802 – Testimony related to exhibit is hearsay <u>Objection</u> : FRE 805 – Hearsay within hearsay with respect to what Dr. Kagan told him
Track 1 Defendants	204:4-9	<u>Objection</u> : Vague, ambiguous. Document not designated.
Track 1 Defendants	208:14-210:5	<u>Objection</u> : Document not designated as trial exhibit. <u>Objection</u> : FRE 802 Hearsay.
Track 1 Defendants	214:11-216:2	<u>Counter Designation</u> : 216:3-217:5; 217:16-20
Track 1 Defendants	218:9-219:3	<u>Objection</u> : FRE 802 Hearsay. Document not designated as trial exhibit.
Track 1 Defendants	225:20-226:16	<u>Objection</u> : FRE 802 Hearsay. Ex. 8 not designated as trial exhibit.
Track 1 Defendants	233:15-20	<u>Objection</u> : Vague, ambiguous, context indecipherable <u>Objection</u> : FRE 802 Hearsay to the extent it relates to document not in evidence. <u>Objection</u> : FRE 805. Hearsay within hearsay to the extent it relates to statements within the document (by the unidentified “her”).
Track 1 Defendants	234:22-238:16	<u>Objection</u> : FRE 802 Hearsay, document not in evidence. <u>Objection</u> : FRE 805. Hearsay within hearsay to the extent questions and testimony relate to out-of-court declarant statements in document. <u>Objection</u> (236:19-237:11): FRE 611 – Leading <u>Objection</u> (236:19-237:11): FRE 602 – no personal knowledge as to what author intended.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	240:3-245:19	<u>Objection</u> (240:3-15): Document referred to not in evidence. Vague, ambiguous as to “this incident.” <u>Objection</u> (240:16-245:19): Document not admissible; FRE 901 – not authenticated; FRE 802 – Admissibility not established. Hearsay; no exception established. <u>Objection</u> (241:21-243:10): FRE 602 – witness has not personal knowledge of authors’ intent. <u>Objection</u> (245:9-12): FRE 802 Hearsay
Track 1 Defendants	246:15-247:5	<u>Objection</u> : Document not in evidence. <u>Objection</u> : FRE 802 Hearsay <u>Objection</u> : FRE 805 Hearsay within hearsay <u>Counter Designation</u> : 247:6-14; 247:18-20
Track 1 Defendants	251:5-253:12	<u>Objection</u> : Exhibit is inadmissible hearsay.
Track 1 Defendants	259:16-260:7	
Track 1 Defendants	262:14-263:21	<u>Objection</u> : Admissibility of document not established. Hearsay. <u>Counter Designation</u> : 266:20-267:20; 280:12-17

50. Robert Bell, Anthem, Inc.

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection</u> : General objection – FRE 402 – Anthem is generally irrelevant to the case. Also, Bell was only at Anthem for a little over 2 years as of 2004.
Track 1 Defendants	December 1, 2004 Transcript: 5:11-19	
Track 1 Defendants	10:11-20	
Track 1 Defendants	50:21-53:21	<u>Objection</u> : FRE 106 (incomplete designation of relevant testimony) Counter-Designation: 53:22-54:12
Track 1 Defendants	54:13-58:4	<u>Objection</u> : FRE 402 (Relevance – Anthem's contracting processes and formulary concerns are irrelevant to the case.) <u>Counter-Designation</u> : 58:5
Track 1 Defendants	59:22-60:8	<u>Objection</u> : Compound question.
Track 1 Defendants	66:7-72:20	<u>Objection</u> : FRE 402 (Relevance – Anthem's formulary considerations are irrelevant.)
Track 1 Defendants	80:8-81:10	<u>Objection</u> : FRE 402 (Relevance – Anthem Health Plans of Ohio, KY, and IN are irrelevant, as is Anthem's contracting process for manufacturer rebates.)
Track 1 Defendants	86:10-94:10	<u>Objection</u> : FRE 402 (Relevance – the process by which Anthem creates its formulary and the considerations that go into that process are irrelevant.) <u>Counter-Designation</u> : 86:6-86:9

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	98:21-108:22	<u>Objection</u> : FRE 802 (hearsay not subject to any exception – Bell Ex. 001 was not designated as a defense exhibit but Bell testifies to it at length in this excerpt); FRE 402 (Relevance – Anthem's formulary is irrelevant to this action).

51. Thomas E. Greenbaum, Cigna

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 14, 2005 Transcript: 6:18-8:7	
Track 1 Defendants	14:7-16:5	<u>Objection</u> : FRE 402 – Relevance. Testimony is on mail order pharmacy. <u>Objection</u> : FRE 701 – Opinion. Witness is being asked to offer a legal opinion on the effect of a contract provision (15:14-16). <u>Objection</u> : FRE 611 – Leading (16:3-4; 16:13-14; 16:16-18; 17:6-7; 17:9-10 17:13-14; 17:22-18:2). <u>Counter Designation</u> : 18:5-16
Track 1 Defendants	16:6-18:4	
Track 1 Defendants	18:17-19:8	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	19:20-20:14	<p><u>Objection:</u> Answer at 20:7 has no question pending.</p> <p><u>Objection:</u> FRE 611 – Leading (20:9-11).</p> <p><u>Objection:</u> FRE 402 – Relevance. Testimony concerns mail order pharmacy.</p> <p><u>Objection:</u> FRE 602 – Foundation. Basis for witness' knowledge not established, question is vague as to time period.</p> <p><u>Objection:</u> FRE 802 – Hearsay. Witness is discussing historical pricing, since he is employed only since 2002, answer must be hearsay.</p>
Track 1 Defendants	23:5-20	<p><u>Objection:</u> FRE 611 – Leading (23:5-7; 23:9-11, 23:16-19).</p> <p><u>Objection:</u> FRE 403 – Cumulative. Testimony is repeat of 19:20-20:14, same objections applied here.</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	72:22-76:8	<p><u>Objection:</u> FRE 611 – Leading (72:22-73:2; 73:16-19; 74:5-9; 75:12-16).</p> <p><u>Objection:</u> FRE 602 – Foundation. Witness is answering for “industry.” His knowledge applies only from 2002 forward.</p> <p><u>Objection:</u> FRE 802 – Hearsay. Witness has only ever worked for CIGNA, can’t possibly know what industry does or does not know about AWP or how it is used. He can answer for CIGNA but only since 2002.</p> <p><u>Objection:</u> FRE 402 – Relevance. Questions are vague as to time period.</p> <p><u>Counter Designation:</u> 59:9-15; 70:3-14; 90:15-19, 105:10-106:2</p>

52. Mary Picerno, Empire Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	February 21, 2006 Transcript: 11:7-12:13	
Track 1 Defendants	14:5-16:2	
Track 1 Defendants	17:3-18	
Track 1 Defendants	25:18-26:6	
Track 1 Defendants	26:16-28:6	
Track 1 Defendants	29:9-12	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	30:10-36:18	<u>Objection</u> : FRE 602. Witness states she is not familiar with document. <u>Objection</u> : FRE 802. Document not in evidence. <u>Objection</u> : FRE 805. <u>Objection</u> : FRE 402 – Irrelevant. Oncology practices in the empire state are not relevant. <u>Counter Designation</u> : 29:13-16
Track 1 Defendants	38:7-40:11	<u>Objection</u> : FRE 805. <u>Counter Designation</u> : 18:1-4; 18:15-20:9

53. Elizabeth Rubin, Empire Blue Cross Blue Shield

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	February 21, 2006 Transcript: 10:20-13:5	
Track 1 Defendants	19:6-17	<u>Counter-Designation</u> : 49:18-22
Track 1 Defendants	22:15-23:10	
Track 1 Defendants	26:14-27:2	<u>Objection</u> : FRE 402– testimony not relevant to claims at issue.
Track 1 Defendants	27:11-30:17	<u>Objection</u> : FRE 802– references a document not in evidence.
Track 1 Defendants	33:15-34:5	<u>Objection</u> : FREE 802– references a document not in evidence.
Track 1 Defendants	37:8-39:15	<u>Objection</u> : FRE 802– references a document not in evidence.
Track 1 Defendants	43:1-16	<u>Counter-Designation</u> : 47:12-49:5

54. James T. Kenney, Harvard Pilgrim Health Care

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 20, 2004 Transcript: 5:16-7:7	
Track 1 Defendants	10:4-13:21	<p><u>Objection:</u> FRE 402 (irrelevant because most, if not all, of this testimony relates to Harvard Pilgrim's "staff model HMO," which Mr. Kenney testified began back in the 1980s and they did not establish a time frame to his testimony); vague questions at 10:4-10:6, 10:10-10:15, 11:11 – 11:15; 12:1-12:6, 12:11-12:15, 13:3-13:6, 13:13-13:17; FRE Rule 602 (lack of foundation or personal knowledge about this subject matter and pricing in general- see counter-designations).</p> <p><u>Counter-Designations:</u> 69:4-71:7; 73:3-74:3; 35:12-17</p>
Track 1 Defendants	14:19-16:2	<p><u>Objection:</u> Vague and/or compound questions at 15:2-15:4, 15:6-15:8, 15:12-15:14, 15:18-15:22. FRE 602, lack of foundation regarding the scope and time-frame of this line of questioning. FRE 402 relevance (does not establish the time frame that these responses relate to, and Mr. Kenney was employed at Harvard Pilgrim for over 24 years back into the early 1980s).</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	21:11-15	<p><u>Objection:</u> Mischaracterizes prior testimony, as Mr. Kenney testified at 16:16-21 that he began working on rebate programs in 1988, and then later confirms this is the case at 26:6-26:15, but question asks about 1998. Rule 402 (irrelevant because this deals with 1988, before the class period at issue)</p> <p><u>Counter-Designation:</u> 16:16-21; 26:6-26:15</p>
Track 1 Defendants	22:1-4	<p><u>Objection:</u> Vague (the terms “go about” and “establishing” are vague).</p>
Track 1 Defendants	25:7-26:16	<p><u>Objection:</u> Mischaracterizes prior testimony, as Mr. Kenney testified at 16:16-21 that he began working on rebate programs in 1988, and then later confirms this is the case at 26:6-26:15, but question asks about 1998. FRE 402 (irrelevant because this deals with 1988, before the class period at issue). Vague question at 25:11-25:14, 25:15 – 25:17.</p> <p><u>Counter-Designation:</u> 16:16-21; 26:6-15</p>

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	33:1-38:11	<u>Objection:</u> Compound and vague question at 33:1-33:4, 34:15-34:19, 35:6-35:10, 37:16-37:17 (does not define what an “RFP” is). FRE 402 (testimony throughout 36:18-38:11 regarding infertility drugs irrelevant to this case). FRE 602 (questions at 33:21-34:1 and 34:5-34:6 call for speculation); (question at 37:21-38:3 lacks foundation).
Track 1 Defendants	39:5-42:15	FRE 802 (Kenney Exhibits 001-004 were marked in this section, however Defendants only designate exhibits 001 and 002, but not Kenney 003 and 004, so assumes facts not in evidence. Defendants recognize that this is a “series of agreements,” so each should have been designated as an exhibit); FRE 901 (documents not fully authenticated); FRE 106 (incomplete testimony). <u>Counter Designation:</u> 42:16-44:7
Track 1 Defendants	44:8-11	<u>Objection:</u> Compound and vague question, Rule 106 (incomplete testimony on this issue). <u>Counter Designation:</u> 44:12-45:12
Track 1 Defendants	45:13-47:7	<u>Objection:</u> Compound and vague question at 45:13-45:22, 46:7-46:10, 46:16-46:18.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	52:2-17	<u>Objection:</u> FRE 602 (Question at 52:2-52:7 assumes facts not in evidence); FRE 106 (defendants proffer incomplete testimony on this issue); Vague and compound question at 52:12-52:15. <u>Counter Designation:</u> 52:18-57:20; 75:4-78:17
Track 1 Defendants	57:21-58:4	<u>Counter Designation:</u> 72:22-74:3
Track 1 Defendants	61:17-62:16	<u>Objection:</u> FRE 802 (assumes facts not in evidence because Kenney Exhibit 005 was not designated as an exhibit by Defendants); FRE 402 (Irrelevant because deals with self-administered drugs).

55. Robert C. Farias, Harvard Pilgrim Health Care

Offering Party	Designation Range	Objection/Counter Designation
		Objection: General 402 objection. Testimony of non-party third-party payor is not relevant.
Track 1 Defendants	October 20, 2004 Transcript: 6:20-7:1	
Track 1 Defendants	12:19-14:5	
Track 1 Defendants	15:1-22:22	
Track 1 Defendants	25:6-27:4	<u>Objection:</u> FRE 402 – Corporate relationship testimony not relevant to any issue in this case.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	27:22-31:13	<u>Counter Designation:</u> 122:12-123:13; 124:3-14; 125:8-10
Track 1 Defendants	32:1-37:19	<u>Counter Designation:</u> 38:10-39:1
Track 1 Defendants	39:11-20	<u>Counter Designation:</u> 64:6-8
Track 1 Defendants	42:8-43:16	<u>Objection:</u> FRE 602 – Testimony is based upon conjecture and speculation and calls for legal conclusions. <u>Counter Designation:</u> 39:21- 40:10; 51:7-52:10
Track 1 Defendants	46:17-49:11	<u>Objection:</u> FRE 402 – Discussion about future reimbursement changes not relevant. <u>Counter Designation:</u> 54:6-12
Track 1 Defendants	51:7-52:10	<u>Counter Designation:</u> 97:18-98:3; 100:3-22
Track 1 Defendants	65:20-67:4	<u>Objection:</u> FRE 602 – Lack of knowledge and there is no foundation for this opinion/testimony. <u>Counter Designation:</u> 66:17-22; 65:20-66:4
Track 1 Defendants	67:6-68:4	<u>Objection:</u> FRE 602 – No foundation for this document. The witness does not use the document in his work. FRE 901 – General authenticity objection and admissibility objection. FRE 802 – hearsay. <u>Counter Designation:</u> 68:17-19

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	73:15-82:5	<u>Objection:</u> FRE 602 – No foundation for this document. The witness does not use the document in his work. FRE 901 – General authenticity objection and admissibility objection. FRE 802 – hearsay. <u>Counter Designation:</u> 68:17-19
Track 1 Defendants	85:5-88:18	<u>Objection:</u> FRE 901 – Document referenced has not bee authenticated. <u>Counter Designation:</u> 85:11-14
Track 1 Defendants	91:12-92:7	<u>Objection:</u> FRE 602 – Lack of knowledge; No foundation as witness is not familiar with audit process. <u>Counter Designation:</u> 91:19-92:4
Track 1 Defendants	101:1-102:4	<u>Objection:</u> FRE 602 – Speculation; Witness lacks foundation to testify about a time period prior to his employment – his employment began in 1996. <u>Counter Designation:</u> 51:7-52:10; 100:3-22
Track 1 Defendants	107:18-116:15	<u>Objection:</u> FRE 901 – Failure to authenticate the exhibit. FRE 602 – Speculation. <u>Counter Designation:</u> 115:18-116:5

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	120:16-121:10	<u>Objection:</u> FRE 602 – Speculation; Witness is not familiar with and has no understanding as to the relationship between WAC and AWP. <u>Counter Designation:</u> 116:22-117:6
Track 1 Defendants	127:6-8	<u>Counter Designation:</u> 127:14-16
Track 1 Defendants	128:14-141:21	<u>Objection:</u> FRE 602 – Lacks personal knowledge as to OIG so witness is speculating (129:7-130:9). <u>Counter Designation:</u> 141:22-143:8
Track 1 Defendants	143:15-148:18	<u>Objection:</u> FRE 602 – Witness lacks foundation and is speculating. <u>Counter Designation:</u> 122:12-123:13
Track 1 Defendants	149:18-150:12	
Track 1 Defendants	150:14-17	
Track 1 Defendants	151:19-153:3	<u>Objection:</u> FRE 602 – Witness is speculating and lacks foundation to answer hypothetical. <u>Counter Designation:</u> 120:7-11; 122:12-123:13; 124:3-14; 125:8-10; 141:22-142:15; 142:21-143:8
Track 1 Defendants	185:13-186:9	<u>Objection:</u> FRE 402 – The last page of the deposition is page 153 – so this citation is irrelevant.

56. Scott Wert, HealthNet Pharmaceutical Services

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	February 1, 2005 Transcript: 6:20-13:12	
Track 1 Defendants	15:5-20:21	<u>Objection:</u> Testimony at 16:21-17:3 is not admissible under FRE 602 as is speculation and not personal knowledge. Testimony at 17:18-18:4 is inadmissible under FRE 602 as there is no foundation that witness has personal knowledge of industry knowledge since the early 1990s. Testimony at 20:16-21 is inadmissible under FRE 602 as question calls for speculation without a foundation that witness has personal knowledge of fact "common to all relationships between manufacturers and PBMs or health plans across the industry."
Track 1 Defendants	23:12-25:12	<u>Objection:</u> FRE 402 – Irrelevant as testimony does not refer to any Defendant, Plaintiff or subject drug. Also no foundation that witness has personal knowledge of "arrangements with an array of different entities has been well known in the industry for a long time." Under FRE 602 – Witness specifically denies knowledge at 24:10.
Track 1 Defendants	27:2-28:8	<u>Objection:</u> Testimony at 27:18-28:8 is speculation, no foundation and inadmissible under FRE 602.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	31:12-32:14	<p><u>Objection:</u> FRE 402 – Testimony is irrelevant as there is no reference so any party, time-frame or subject drug. Further, testimony at 32:8-14 has no foundation to demonstrate personal knowledge; is speculative and inadmissible under FRE 602.</p> <p><u>Counter Designation:</u> 32:18-33:22</p>
Track 1 Defendants	35:17-37:17	<p><u>Objection:</u> Testimony is irrelevant under FRE 402 as there is no reference to any party, time-frame or subject drug. Further testimony has no foundation that witness has personal knowledge of all factors and/or expectations of Health Net regarding relationships between actual acquisition price and AWP, making it inadmissible under FRE 602.</p>
Track 1 Defendants	39:13-41:19	<p><u>Objection:</u> FRE 402 – Testimony is irrelevant as it has no reference or applicability to issues in the case, time-frame, parties or subject drugs.</p>
Track 1 Defendants	55:2-57:15	<p><u>Objection:</u> Testimony at 55:5-57:15 inadmissible under FRE 602 – lack of foundation that witness has personal knowledge of subject-matter of the series of improper leading questions (FRE 611). Witness admits lack of knowledge at 57:7-8, 13-15.</p>

57. Edward Lemke, Humana

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	January 11, 2005 Transcript: 18:15:20:5	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue.
Track 1 Defendants	24:15-21	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue. <u>Objection</u> : FRE 611 – leading question.
Track 1 Defendants	25:3-27:20	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue. <u>Objection</u> : FRE 611 – leading question (25:14-18; 25:20-26:3; 26:3-10; 26:12-15; 26:17-27:6; and 27:16-20).
Track 1 Defendants	43:18-50:11	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue. <u>Objection</u> : FRE 611 – leading question (47:20-48:2; 48:5-12; 48:21-50:11). <u>Objection</u> : FRE 602 – Speculation, lack of personal knowledge (50:3-11).
Track 1 Defendants	52:6-53:16	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue. <u>Objection</u> : FRE 602 – No foundation of personal knowledge; question calls for speculation.
Track 1 Defendants	66:4-13	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	66:22-68:21	<u>Objection</u> : FRE 402. Irrelevant as no reference to subject drugs or matters at issue. <u>Objection</u> : FRE 602, 611 – questions are leading and call for speculation. Responses are speculation prohibited by FRE 602.
Track 1 Defendants	74:6-75:2	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs.
Track 1 Defendants	75:12-76:17	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs.
Track 1 Defendants	83:22-84:21	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs. <u>Objection</u> : FRE 602 – calls for speculation <u>Objection</u> : FRE 611 – leading questions
Track 1 Defendants	112:9-113:11	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs. <u>Objection</u> : FRE 611 – leading questions <u>Objection</u> : FRE 602 – no foundation, speculation and lack of personal information <u>Counter Designation</u> : 111:22-112:8
Track 1 Defendants	116:4-118:8	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs. <u>Objection</u> : FRE 602 – lack of personal knowledge and speculation in responses

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	123:17-124:16	<u>Objection</u> : FRE 402 – Irrelevant. No time frame or reference to subject drugs. <u>Objection</u> : FRE 602 – no foundation, speculation and lack of personal knowledge (124:9-16) <u>Counter Designation</u> : 197:11-201:11
Track 1 Defendants	147:18-148:2	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated
Track 1 Defendants	152:13-153:14	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	153:21-154:13	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	155:4-157:16	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	174:18-21	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	175:5-11	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	175:21-186:19	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	187:8-188:16	<u>Objection</u> : FRE 402 – Irrelevant. Testimony regarding deposition exhibit not designated as trial exhibit. <u>Objection</u> : FRE 901 – not authenticated <u>Objection</u> : FRE 802 – inadmissible hearsay
Track 1 Defendants	192:15-194:19	<u>Objection</u> : FRE 402 – Testimony is entirely irrelevant as there is no reference to time, parties or subject drugs. <u>Objection</u> : FRE 602 – responses are speculation, not based on personal knowledge

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	209:5-210:20	<p><u>Objection:</u> FRE 611 – leading questions</p> <p><u>Objection:</u> FRE 402 – Testimony is irrelevant as there is no reference to time, parties or subject drugs; irrelevant testimony regarding deposition exhibit not designated as trial exhibit and not authenticated under FRE 901.</p> <p><u>Objection:</u> FRE 602 – no foundation, speculation, and lack of personal knowledge for witness' responses.</p>

58. Carol Sidwell, John Deere Healthcare

Offering Party	Designation Range	Objection/Counter Designation
		<u>General objection to witness:</u> FRE 402 – irrelevant to case.
Track 1 Defendants	September 17, 2004 Transcript: 6:12-13	<u>Counter Designation:</u> 6:9-11
Track 1 Defendants	6:21-12:17	<u>Objection to 10:11-12:17:</u> FRE 402 – Irrelevant. Witness' experience as pharmacy manager for retail store is irrelevant to this lawsuit.
Track 1 Defendants	30:20-32:7	<u>Objection:</u> FRE 402 – Irrelevant. Pharmacy reimbursement is irrelevant to this lawsuit.
Track 1 Defendants	32:16-22	
Track 1 Defendants	39:9-40:8	<u>Objection to 40:2-8:</u> FRE 602. No personal knowledge of reimbursement to physicians.
Track 1 Defendants	46:5-47:6	<u>Objection:</u> FRE 402. Reimbursement to pharmacies is irrelevant.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	51:22-53:12	<u>Objection:</u> FRE 402. John Deere contracts with pharmacies in Iowa and Tennessee are irrelevant. Exhibit not designated.
Track 1 Defendants	64:7-66:18	<u>Objection to 64:7-66:18:</u> FRE 402. Irrelevant to the extent it relates to pharmacy reimbursement. <u>Objection to 65:11-22, 66:2-18:</u> FRE 602. Witness has no personal knowledge.
Track 1 Defendants	68:21-69:10	<u>Objection:</u> FRE 402 – Irrelevant. Relates to pharmacy.
Track 1 Defendants	70:21-71:17	

59. Dan Dragalin, Multiplan

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 17, 2004 Transcript: 8:17-17:1	<u>Counter Designation:</u> 89:17-92:1; 94:1-19
Track 1 Defendants	17:20-18:6	
Track 1 Defendants	20:11-21:19	<u>Counter Designation:</u> 86:4-87:19; 89:17-92:1; 94:1-19; 93:7-10
Track 1 Defendants	23:2-24:6	<u>Counter Designation:</u> 77:2-14; 86:4-87:19; 93:7-10
Track 1 Defendants	26:22-28:4	<u>Counter Designation:</u> 77:2-14; 86:4-87:19; 93:7-10
Track 1 Defendants	46:4-48:15	<u>Objection:</u> (46:4-48:15) – FRE 402 Relevance-testimony does not relate to any of the parties or products at issues. <u>Objection</u> (47: 20-22) question vague.
Track 1 Defendants	54:15-55:14	<u>Counter Designation:</u> 77:2-14; 86:4-87:19; 93:7-10.
Track 1 Defendants	57:4-60:1	<u>Objection:</u> (59:16-60:1) – FRE 802 –Hearsay.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	60:7-18	<u>Objection:</u> (60:7-14) – FRE 802 Hearsay. Objection (60:15-18). FRE 602 Speculation, lack of foundation.
Track 1 Defendants	81:9-84:4	<u>Objection:</u> (83:17-84:4) witness is speculating as to the reasons for variability in other market places other than his own.

60. Reann Maxwell, University of Pittsburgh Medical Center Health Plan

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	September 9-10, 2004 Transcript: 4:10-15	
Track 1 Defendants	5:11-12:16	
Track 1 Defendants	58:18-59:14	<u>Objection:</u> FRE 402 – Testimony irrelevant as it does not refer to time, Defendant, Plaintiff or subject drug or issue before the Court.
Track 1 Defendants	73:1-19	<u>Counter Designation:</u> 73:20-74:3
Track 1 Defendants	84:18-21	<u>Counter Designation:</u> 84:3-17; 84:22-85:2
Track 1 Defendants	85:3-8	
Track 1 Defendants	119:9-16	<u>Counter Designation:</u> 118:13-119:8

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	154:2-157:1	Objection: FRE 402 – Testimony is irrelevant as it has no reference to drug or facts at issue. Testimony at 154:16-157:1 is also inadmissible under FRE 602 as question is hypothetical, assumes facts not in evidence, no foundation of personal knowledge, and witness at 156:18 states she does not know how to answer questions and provides responses that are speculative and ambiguous.

61. Timothy Hopkins, Anthem Prescription Management

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objection to witness:</u> FRE 402. Anthem Prescription Management irrelevant to this case. Witness' knowledge relates to pharmacies, irrelevant to this case.
Track 1 Defendants	November 30, 2004 12:4-14:18	<u>Objection to 14:17-18:</u> Vague. Misleading. Incomplete. Question indicated with no answer. <u>Objection to 13:19-14:18:</u> FRE 402 – Irrelevant. Experience at Kroger not relevant. <u>Objection to 13:19-14:18:</u> FRE 602. No foundation with respect to AWP or WAC for period 1990-1995. Nothing designated with respect to position at Anthem.
Track 1 Defendants	75:22-76:21	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	77:17-78:2	<u>Objection</u> : FRE 106. Remainder of examination must in fairness be considered. <u>Counter Designation</u> : 78:3-80:18
Track 1 Defendants	81:7-83:8	
Track 1 Defendants	96:11-97:8	<u>Objection</u> : FRE 402 – Irrelevant. Testimony relates to pharmacy reimbursement. <u>Counter Designation</u> : 97:9-19
Track 1 Defendants	98:19-100:12	<u>Objection</u> : Move to strike answer as non-responsive to question. <u>Counter Designation</u> : 100:13-15

62. Penny Marshall, Schaller Anderson

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objections:</u> FRE 402 – this is a deposition of an Arizona entity, and the 30(b)(6) deponent deals exclusively with Arizona; FRE 106 – this is a continuation of a 30(b)(6) deposition wherein the parties' positions from the first 30(b)(6) deposition were incorporated into this second transcript, however the defendants do not designate the first transcript.
Track 1 Defendants	February 28, 2005 Transcript: 13:1-19:2	
Track 1 Defendants	35:3-37:13	<u>Objection:</u> FRE 106. Designated portion does not reflect the full and complete testimony of the witness; leading question at 35:10-11; FRE 602 (no time period established for the question or answer); 35:13-35:19 calls for speculation and the answer is non-responsive. <u>Counter Designation:</u> 33:13-35:2; 37:14-38:3; 80:11-81:19
Track 1 Defendants	48:9-14	<u>Objection:</u> FRE 602 – inadequate foundation laid, no time period established for the question or answer; Objection to the form of the question (vague); FRE 106 – incomplete testimony. <u>Counter Designation:</u> 44:2-14; 47:15-48:8, 48:15-49:1

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	49:2-15	<p><u>Objection:</u> FRE 602 – foundation. Witness has testified that she doesn't have knowledge to answer this question and no time period established for the question or answer; vague and compound question; calls for speculation; answer is speculative.</p> <p><u>Counter Designation:</u> 48:15-49:1; 49:16-51:4</p>
Track 1 Defendants	69:20-71:13	<p><u>Objection:</u> Vague and leading question at 70:12-14; FRE 602 – lack of foundation and no time period established for the question or answer, and vague question at 70:16-18; vague and speculative question at 71:10-13</p> <p><u>Counter Designation:</u> 67:18-69:19; 35:20-36:8; 44:2-45:13; 82:8-83:9</p>

63. Patricia K. Morgan, First Databank

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objection</u> : Dep. exhibits 4, 12, 14, 24, 41 not authenticated.
Track 1 Defendants	January 11-12, 2005 Transcript: 19:2-11	
Track 1 Defendants	26:11-53:9	<u>Objection</u> : (28:8-10) Document not in evidence. <u>Objection</u> : (38:15-19) FRE 611 Leading. <u>Objection</u> : (39:10-12) FRE 611 leading. <u>Objection</u> : (39:20-21) FRE 611 Leading. <u>Objection</u> : (43:6-9) FRE 611 leading. <u>Objection</u> : (46:20-47:2) FRE 611 Leading. <u>Objection</u> : (47:5-7) question is vague and ambiguous. <u>Objection</u> (47:17-19) FRE 611 leading. <u>Objection</u> : (48:21-49:7) FRE 611 leading. <u>Objection</u> : (49:13-17) compound question. <u>Counter Designation</u> : 430:13-433:17
Track 1 Defendants	57:19-59:5	
Track 1 Defendants	63:3-65:17	<u>Objection</u> : (63:13-14) FRE 611 leading. <u>Objection</u> : (64:6-9) FRE 602 witness is speculating. <u>Objection</u> : (65:6-9) compound question and mischaracterization as to “calculation” previous answer refers to “processed through database” not calculation. <u>Objection</u> : (65:13-15) vague as to “typically.” <u>Counter Designation</u> : 65:18-66:5; 73:4-11/

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	79:9-82:1	<u>Objection</u> (79:9-18) testimony does not relate to any of the Track 1 Defendants. <u>Objection</u> : (80:13-18) FRE 602 witness answer is speculation.
Track 1 Defendants	119:22-138:11	<u>Objection</u> (121:9-125:7) FRE 402 relevance – entire line of questioning deals with a drug product which is not at issue in the case. Further, the witness lacks foundation and is speculating. <u>Objection</u> (125:1-11) FRE 602 lack of foundation, vague. <u>Objection</u> : (129:3-5) assumes facts not in evidence, vague and ambiguous. <u>Objection</u> : (130:7-13) FRE 611 leading; witness' answer is speculation and non-responsive. <u>Objection</u> : (131:2-135:2) FRE 402 – relevance – line of questioning relates to Risperdal, a drug not at issue at trial. <u>Objection</u> : (135:10-15) FRE 611 leading.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	160:7-186:17	<p><u>Objection</u> (160:7-13) FRE 602 lack of foundation. <u>Objection</u> (163:13-16) document not in evidence. <u>Objection</u> (164:13-16) document not in evidence. <u>Objection</u> (164:18-166:10) FRE 402 – relevance – entire line of questioning deals with Immunex, which is not a party at trial. <u>Objection</u> (168:10-12) document not in evidence. <u>Objection</u> (168:15-176:8) FRE 402 – relevance – this entire line of questioning deals with TAP, its product Prevacid, and Pfizer; neither TAP or Pfizer is a party at this trial, nor is Prevacid a drug at issue, therefore, the testimony is irrelevant. <u>Objection</u> (179:20-180:1) compound question. <u>Objection</u> (185:5-7) FRE 611 Leading. <u>Objection</u> (185:17-20) misstates prior testimony. <u>Objection</u> (186:3-5) FRE 611 Leading.</p> <p><u>Counter Designation:</u> 444:20-451:22; 473:16-476:20; 477:5-484:13; 485:4-487:2; 487:19-490:2; 496:9-501:4; 510:11-515:22</p>
Track 1 Defendants	223:20-230:18	<p><u>Objection</u> (226:22-227:2) FRE 602 lack of foundation. <u>Objection:</u> (227:19) FRE 602 lack of foundation. <u>Objection:</u> (228:11-12) FRE 602 lack of foundation. <u>Objection:</u> (229:16-18) vague, ambiguous and assumes facts not in evidence. <u>Objection:</u> (230:13-16) FRE 611 leading.</p>
Track 1 Defendants	233:22-236:15	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	238:22-240:18	
Track 1 Defendants	243:19-244:6	
Track 1 Defendants	350:7-351:10	
Track 1 Defendants	374:2-381:2	
Track 1 Defendants	389:11-393:14	<u>Counter Designation:</u> 387:22-389:10
Track 1 Defendants	441:4-15	<u>Objection:</u> FRE 602 witness is speculating.
Track 1 Defendants	462:6-463:12	
Track 1 Defendants	527:11-528:15	
Track 1 Defendants	561:14-562:12	563:19 -565:2
Track 1 Defendants	January 28, 2002 Transcript: 56:7-16	<u>Objection to 56:11-16:</u> FRE 602. Witness has no personal knowledge of pricing per her own testimony. <u>Counter Designation:</u> 9:11-11:25; 13:18-14:1; 14:23-16:12; 18:21-20:10; 21:8-11; 56:17-21; 60:9-61:1
Track 1 Defendants	67:7-24	
Track 1 Defendants	68:24-71:25	
Track 1 Defendants	November 13, 2002 Transcript: 15:8-16:8	
Track 1 Defendants	16:19-18:2	
Track 1 Defendants	28:9-18	<u>Objection:</u> FRE 802 – Hearsay, not subject to any exception
Track 1 Defendants	33:7-24	<u>Objection:</u> FRE 802 – Hearsay, not subject to any exception
Track 1 Defendants	120:4-121:5	
Track 1 Defendants	308:25-309:12	
Track 1 Defendants	315:16-25	

64. Carole O'Brien, VA National Acquisition Center

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	April 5, 2005 Transcript: 5:14-18	
Track 1 Defendants	6:12-13	
Track 1 Defendants	8:7-9:17	
Track 1 Defendants	16:10-18:5	
Track 1 Defendants	18:6-20:13	
Track 1 Defendants	20:18-25:21	
Track 1 Defendants	30:19-36:19	
Track 1 Defendants	43:14-44:12	<u>Objection:</u> FRE 602. No foundation to discuss AWP.
Track 1 Defendants	44:22-45:18	<u>Objection:</u> FRE 402 (public supply schedule). <u>Objection:</u> FRE 602.
Track 1 Defendants	50:12-52:11	<u>Objection:</u> FRE 402, 602.
Track 1 Defendants	53:4-21	<u>Objection:</u> FRE 402, 602.
Track 1 Defendants	62:1-14	<u>Objection:</u> FRE 402
Track 1 Defendants	64:12-66:8	<u>Objection:</u> No question indicated. Vague, misleading. FRE 402, 602, 802.
Track 1 Defendants	67:7-71:1	<u>Objections to 68:20-22, 69:1-5:</u> FRE 602, 402.

65. Steven Thomas, VA National Acquisition Center

Offering Party	Designation Range	Objection/Counter Designation
		<u>General Objection</u> : Testimony reveals witness does not deal at all with Medicare and Medicaid or Section 340 drug pricing program or rebates. Not involved in negotiations. The witness' testimony is irrelevant; he has no foundation to testify about these areas. <u>Counter Designation</u> : 33:20-34:19
Track 1 Defendants	April 5, 2005 Transcript: 5:13-18	
Track 1 Defendants	6:14-7:3	
Track 1 Defendants	15:4-22	<u>Objection</u> : FRE 602; FRE 402.
Track 1 Defendants	21:1-23:3	<u>Objection</u> : FRE 602; FRE 402.
Track 1 Defendants	38:16-39:1	<u>Objection</u> : FRE 602; FRE 402.
Track 1 Defendants	39:15-40:4	<u>Objection</u> : FRE 602; FRE 402.
Track 1 Defendants	42:9-43:5	<u>Counter Designation</u> : 43:6-8

66. Robert James, McKesson

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	February 23, 2005 Transcript: 6:20-10:1	
Track 1 Defendants	21:3-18	<u>Counter Designation</u> : 19:20-20:3
Track 1 Defendants	22:16-23:15	
Track 1 Defendants	40:16-43:22	
Track 1 Defendants	48:17-50:16	<u>Objection</u> : FRE 402. Testimony is irrelevant as it is vague as to time, defendant or drug.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	51:6-53:18	<u>Objection:</u> FRE 402. Testimony is irrelevant as it is vague as to time, defendant or drug.
Track 1 Defendants	55:17-57:5	<u>Objection:</u> FRE 402. Testimony is irrelevant as it is vague as to time, defendant or drug. <u>Counter Designation:</u> 63:22-65:10
Track 1 Defendants	78:15-84:7	<u>Objection to 78:15-81:17:</u> FRE 402. Testimony is irrelevant as it is vague as to time, defendant or drug. <u>Objection:</u> FRE 602. Witness admits lack of personal knowledge of why McKesson provided selling prices to customers.
Track 1 Defendants	84:22-85:22	
Track 1 Defendants	86:16-87:18	<u>Objection:</u> FRE 602. Testimony is not based on personal knowledge – speculation.
Track 1 Defendants	89:15-18	<u>Objection:</u> FRE 402. Vague as to time. <u>Objection:</u> FRE 602. Testimony does not provide foundation to show testimony based on personal knowledge – speculation.
Track 1 Defendants	96:19-100:13	<u>Objection:</u> FRE 402. Testimony is irrelevant as it lacks timeframe, lacks reference to defendants or drugs at issue. <u>Counter Designation:</u> 93:13-96:18

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	106:3-14	<u>Objection:</u> FRE 402. Testimony is irrelevant as it lacks timeframe, defendant or drug. <u>Counter Designation:</u> 106:15-108:9
Track 1 Defendants	116:2-10	<u>Objection:</u> FRE 402. Testimony is irrelevant as it lacks timeframe, defendant or drug.
Track 1 Defendants	119:5-121:17	<u>Objection:</u> FRE 402. Testimony is irrelevant as it lacks timeframe, defendant or drug, and refers to document not in evidence. <u>Objection:</u> FRE 802. Inadmissible hearsay.
Track 1 Defendants	140:14-141:7	<u>Objection:</u> FRE 602. Testimony not based on personal knowledge and inadmissible opinion testimony by lay witness outside of exceptions set forth in FRE 701. <u>Counter Designation:</u> 140:11-13
Track 1 Defendants	144:15-145:5	<u>Objection:</u> FRE 802. Inadmissible hearsay. <u>Objection:</u> FRE 602. Not based on personal knowledge.

67. Jody Taylor, Cardinal Health

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 3, 2005 Transcript: 8:3-7	
Track 1 Defendants	10:4-11:8	
Track 1 Defendants	24:22-25:2	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug.
Track 1 Defendants	27:4-29:5	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	47:14-48:10	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug.
Track 1 Defendants	51:21-52:12	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug.
Track 1 Defendants	54:21-55:4	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug.
Track 1 Defendants	58:16-61:20	
Track 1 Defendants	85:19-86:11	<u>Objection:</u> FRE 402 – irrelevant as testimony refers to hearsay document not in evidence; FRE 802 – inadmissible.
Track 1 Defendants	90:5-16	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug; FRE 602 – no foundation provided to show witness is testifying from personal knowledge.
Track 1 Defendants	117:21-118:4	<u>Objection:</u> FRE 402 – irrelevant as testimony fails to refer to a timeframe, defendant or product/drug, but a reference price unique to Cardinal Health.
Track 1 Defendants	131:17-132:8	<u>Objection:</u> FRE 802 – inadmissible hearsay that does not fall within an exception under 803, 804. <u>Objection to 132:3-5:</u> FRE 805 – inadmissible as hearsay within hearsay. <u>Counter Designation:</u> 128:17-129:16

68. Dennis Lindell, AmerisourceBergen Corporation

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	July 27, 2006 Transcript: 8:4-8	
Track 1 Defendants	20:10-21:1	<u>Objection:</u> FRE 402 – Testimony irrelevant as no reference to time, Defendant or drug. <u>Counter-Designation:</u> 20:1-9
Track 1 Defendants	36:9-37:2	<u>Objection:</u> FRE 402 – Testimony irrelevant as no reference to time, Defendant or drug.
Track 1 Defendants	41:4-42:10	<u>Objection:</u> FRE 802 – Testimony is inadmissible hearsay and written hearsay (FRE 805).
Track 1 Defendants	62:19-70:14	
Track 1 Defendants	71:5-72:6	
Track 1 Defendants	89:18-95:8	<u>Objection:</u> FRE 802 - Testimony is irrelevant under FRE as it refers to document not in evidence; Document is inadmissible hearsay. <u>Counter-Designation:</u> 75:4-76:2
Track 1 Defendants	109:5-110:5	<u>Objection:</u> FRE 402 – Testimony irrelevant as no reference to time, Defendant or drug.
Track 1 Defendants	110:18-112:6	<u>Objection:</u> FRE 402 – Testimony irrelevant as no reference to time, Defendant or drug.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	134:20-136:10	<u>Objection</u> : FRE 402 – Testimony irrelevant as no reference to time, Defendant or drug.

69. Zachary Dyckman, Dyckman & Associates

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 21, 2004 Transcript 8:5-9:5	
Track 1 Defendants	9:15-10:2	
Track 1 Defendants	10:8-13:5	
Track 1 Defendants	14:7-16:20	<u>Objection</u> : FRE 402 – Relevance.
Track 1 Defendants	17:13-20:14	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation.
Track 1 Defendants	21:11-25:3	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation.
Track 1 Defendants	25:20-26:13	<u>Objection</u> : FRE 402 – Relevance.
Track 1 Defendants	27:18-28:20	<u>Objection</u> : FRE 402 – Relevance.
Track 1 Defendants	31:21-32:10	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 611 – Leading questions.
Track 1 Defendants	33:2-34:19	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay.
Track 1 Defendants	38:5-39:1	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading question (38:5-7).

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	44:4-13	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion.
Track 1 Defendants	48:16-50:7	<u>Objection</u> : FRE 402 – Relevance. Non-responsive, question limited to 1986-87, answer is about 1994.
Track 1 Defendants	57:8-60:2	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading question (58:10-14).
Track 1 Defendants	61:9-63:18	<u>Objection</u> : FRE 402 – Relevance, testimony at 62:15-63:18 relates to payments to hospitals and physicians for services, not for pharmaceutical reimbursement; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading question (61:9-11).
Track 1 Defendants	69:17-72:13	<u>Objection</u> : FRE 402 – Relevance; FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading question (72:3-7).
Track 1 Defendants	74:13-76:1	<u>Objection</u> : FRE 402 – Relevance; FRE 802 – Hearsay; FRE 701, 702 – Opinion offered on codes.
Track 1 Defendants	77:7-78:3	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation, no basis for witness knowing how many plans responded, what responses were; FRE 802 – Hearsay; FRE 701, 702 – Opinion.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	79:5-22	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion.
Track 1 Defendants	82:11-88:5	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation; FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading question (84:21-85:2; 85:16-19; 86:1-2; 86:9-10; 86:20-21; 87:8-16; 87:20).
Track 1 Defendants	91:19-92:12	<u>Objection</u> : FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading questions.
Track 1 Defendants	93:16-21	<u>Objection</u> : FRE 802 – Hearsay; FRE 701, 702 – Opinion; FRE 611 – Leading questions.
Track 1 Defendants	96:18-101:19	<u>Objection</u> : FRE 402 – Relevance; FRE 602 – Foundation (98:22-99:8; 100:2-101:19); FRE 802 – Hearsay; FRE 701, 702 – Opinion (97:2-98:6-witness is being asked to offer opinion on “relationship understood by plans” between reimbursement and dispensing fees and profit by physicians; 100:2-101:19-offering opinion on “standard AWP pricing formulas”); FRE 611 – Leading question (96:18-21; 97:7-8; 97:12-16; 99:9-11; 99:15-17; 99:20; 100:11-13 (compound);100:17-19).

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	102:17-22	<u>Objection:</u> FRE 602 – Foundation. Basis for witness knowing whether physicians charging less than allowed not established. <u>Counter Designation:</u> 105:12-18; 106:1-107:16; 113:11-13; 116:3-117:6; 119:20-22; 122:4-16; 123:9-125:7; 126:10-127:2; 129:18-133:12; 134:22-135:6; 135:13-17; 141:21-142:7; 143:5-144:19; 145:6-147:14
Track 1 Defendants	149:12-20	
Track 1 Defendants	156:5-157:18	<u>Counter Designation:</u> 157:19-164:10; 172:8-22

70. Arthur Steinberg, Philadelphia Federation of Teachers Health and Welfare Fund

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 11, 2004 Transcript: 16:2-19	
Track 1 Defendants	17:17-19:15	
Track 1 Defendants	37:7-14	<u>Objection:</u> FRE 402 – Relevance. Ask for an offer why retention of benefits consultant is relevant. No testimony about what consultant did or was retained to do.
Track 1 Defendants	101:17-102:6	<u>Objection:</u> FRE 611 – Leading. <u>Counter Designation:</u> 102:8-16
Track 1 Defendants	109:13-110:1	<u>Objection:</u> FRE 402 – Relevance. No testimony regarding what consultant did or was retained for. <u>Counter Designation:</u> 84:19-85:3; 86:14-87:6; 89:7-17; 91:1-16; 92:20-93:3; 97:9-14

Track 1 Defendants	259:16-261:3	<u>Objection:</u> FRE 402 – Relevance. Testimony involves witness' dissatisfaction with services provided by Plan Administration and decided to put services out for bid.
Track 1 Defendants	June 18, 2004 Transcript: 415:21-416:14	<u>Objection to</u> 415:21-416:1; <u>416:8-10; 416:12-13:</u> FRE 611 – Leading. <u>Counter Designation:</u> 102:8-16

71. Julie Ryberg, Formula Corp.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 2, 2004 Transcript: 15:7-16:3	<u>Objection:</u> FRE 402. Relevance. Her background involves payments under dental coverage or payments to pharmacy. <u>Counter Designation:</u> 16:9-17; 17:6-13; 19:7-17; 22:21-23:5; and 33:20-34:1
Track 1 Defendants	119:16-120:18	<u>Objection:</u> FRE 402. Relevance. Witness testimony relates to payments made to pharmacy. <u>Objection:</u> FRE 802. Hearsay. Witness testimony is based on a document not entered in evidence. <u>Counter Designation:</u> 135:14-137:10
Track 1 Defendants	121:20-124:13	<u>Objection:</u> FRE 402. Relevance. Witness testimony relates to payments made to pharmacy. <u>Objection:</u> FRE 802. Hearsay. Witness testimony is based on a document not entered in evidence.

72. William Ecklund, Twin City Bakery Workers Health & Welfare Fund

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	March 3, 2004 Transcript: 17:9-18:3	
Track 1 Defendants	37:15-38:3	<u>Counter Designation:</u> 36:4-22
Track 1 Defendants	40:6-11	<u>Counter Designation:</u> 238:19-239:15
Track 1 Defendants	77:16-78:1	
Track 1 Defendants	83:18-84:15	
Track 1 Defendants	98:16-99:8	<u>Objection:</u> FRE 602 – witness is speculating. <u>Counter Designation:</u> 97:15-98:14
Track 1 Defendants	108:9-109:5	<u>Objection:</u> FRE 602 – lack of foundation. <u>Objection:</u> FRE 802 – document not in evidence.
Track 1 Defendants	138:20-141:2	<u>Objection:</u> FRE 802 – document not in evidence. <u>Objection:</u> FRE 602 witness speculating.
Track 1 Defendants	141:16-144:3	<u>Counter Designation:</u> 135:19-136:3
Track 1 Defendants	151:16-152:8	<u>Objection:</u> FRE 602 – witness speculating.
Track 1 Defendants	197:10-198:12	<u>Objection:</u> FRE 602 – witness speculating; lack of foundation. <u>Counter Designation:</u> 198:16-199:1
Track 1 Defendants	242:16-243:7	<u>Counter Designation:</u> 243:17-20

73. Bernard Dale Jackson, Man-U Service Contract Trust Fund

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	August 27, 2005 Transcript: 9:19-10:17	<u>Counter Designation:</u> 9:15-18
Track 1 Defendants	14:12-15:2	<u>Counter Designation:</u> 11:10-20 17:17-20; 24:17-25:7; 29:4-10
Track 1 Defendants	36:15-38:5	
Track 1 Defendants	40:10-41:3	
Track 1 Defendants	67:9-20	

74. William J. Einhorn, Teamsters Health and Welfare Fund of Philadelphia & Vicinity

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	February 25, 2004 Transcript: 15:18-16:19	
Track 1 Defendants	120:3-121:15	<u>Counter Designation:</u> 118:17- 119:18; 123:2-9; 125:21-126:8; 126:9-127:21; 128:6-129:22; 133:15-134:2; 121:16-123:1; 135:14-22; 137:3-138:9; 139:18- 141:12; 143:20-144:17
Track 1 Defendants	162:1-164:8	<u>Objection:</u> to questions relating to THFWO678 – FRE 106 – not rendered as exhibit; FRE 803; FRE 805; FRE 402 – relevance; being examined on a document not in evidence.
Track 1 Defendants	165:19-166:21	<u>Objection:</u> FRE 106 – document not rendered as an exhibit; FRE 803 – hearsay; FRE 805 – hearsay; FRE 402 – relevance; being examined on a document not in evidence. <u>Objection to 166:17:</u> FRE 611 – leading.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	168:12-169:1	<u>Objection</u> : FRE 106 – document not rendered as an exhibit; FRE 803 – hearsay; FRE 805 – hearsay; FRE 402 – relevance; being examined on a document not in evidence. <u>Objection</u> to 168:15 and 168:20: FRE 611 – leading.
Track 1 Defendants	169:11-170:3	<u>Objection</u> : FRE 106 – document not rendered as an exhibit; FRE 803 – hearsay; FRE 805 – hearsay; FRE 402 – relevance; being examined on a document not in evidence. <u>Objection</u> to 169:14, 169:18 and 170:1: FRE 611 – leading.
Track 1 Defendants	177:10-20	<u>Objection</u> : FRE 106, FRE 402, FRE 802. Questions relate to a document not in evidence.
Track 1 Defendants	181:11-182:16	<u>Objection</u> : FRE 106, FRE 402, FRE 802. Questions relate to a document not in evidence. <u>Objection</u> to 181:22 – 182:16: FRE 602 – foundation. <u>Objection</u> to 181:11 and 181:14: FRE 611 – leading.
Track 1 Defendants	184:1-14	
Track 1 Defendants	195:17-196:13	<u>Counter Designation</u> : 194:21-195:16
Track 1 Defendants	207:7-208:2	<u>Objection</u> : FRE 106, FRE 402, FRE 802. Counsel is reading a portion of a document not in evidence. <u>Objection</u> to 207:10: FRE 611 – leading.

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	215:5-218:9	<u>Objection</u> : FRE 106, FRE 402, FRE 802. Question relates to a document not in evidence. <u>Objection</u> to 215:11: FRE 602. Foundation. Witness testimony is based on him reading the document and not on his personal knowledge. <u>Objection</u> to 217:7: FRE 611. Leading. <u>Objection</u> to 217:13: FRE 403. Confusing. Not clear what question witness is answering. <u>Counter Designation</u> : 223:12-224:5
Track 1 Defendants	244:7-18	<u>Objection</u> : FRE 106, FRE 402, FRE 802. Counsel is reading a portion of a document not in evidence. <u>Objection</u> to 244:10: FRE 611. Leading.
Track 1 Defendants	259:10-18	<u>Objection</u> : FRE 802 – hearsay. FRE 602 – foundation. Question calls for third party's knowledge and no basis established for witness knowledge.

75. John Rogers, Independent Health

Offering Party	Designation Range	Objection/Counter Designation
		<u>Objection</u> : General objection as to relevancy of testimony as a non-party third-party payor.
Track 1 Defendants	September 28, 2004 Transcript: 7:3-7:12	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	90:18-91:20	<u>Objection:</u> FRE 402 – Self-administered drugs mentioned are not at issue in this litigation. <u>Counter-Designation:</u> 32:17-22; 89:2-6; 102:7-13 ending with “pricing, yes.”; 103:3-8 ending with “really is.”
Track 1 Defendants	106:21-108:6	<u>Objection:</u> FRE 402 – Not relevant to physician administered brand-name drugs at issue in our case. MAC pricing is used by deponent only for generics (not brand PADs). <u>Counter-Designation:</u> 102:7-13; 103:3-8; 108:7-18; 124:6-11 ending with “would be.”; 126:1-5.

76. William A. Rhodes, Zenith Administrators

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	July 7, 2004 Transcript: 6:7-8:9	
Track 1 Defendants	29:19-30:12	
Track 1 Defendants	39:4-40:4	<u>Objection:</u> FRE 402 – Relevance. What funds are self insured under Taft Hartley. <u>Counter Designation:</u> 42:10-44:18

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	45:12-20	<u>Objection:</u> FRE 402 – Relevance. Pharmacy payments for pharmaceuticals are not subject of this trial. <u>Objection:</u> FRE 602 – Foundation. There is no basis for witness' knowledge of pharmacy or physician payment for pharmaceuticals or for "anyone."
Track 1 Defendants	57:21-58:3	<u>Objection:</u> FRE 402 – Relevance. Testimony involves payments to pharmacy not an issue in this trial. <u>Objection:</u> FRE 602 – Foundation. He has not basis for knowing what PBM pays so the answer is speculation.
Track 1 Defendants	October 26, 2004 Transcript: 26:21-27:16	<u>Objection:</u> FRE 402 – Relevance. <u>Objection:</u> FRE 602 – Foundation.

77. David Lambert, AmeriSourceBergen

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	November 17, 2004 Transcript: 5:8-13	
Track 1 Defendants	7:13-8:1	
Track 1 Defendants	10:7-11:7	<u>Counter Designation:</u> 11:19-12:11; 16:7-18
Track 1 Defendants	20:10-23:6	<u>Counter Designation:</u> 23:7-17; 30:22-31:11.
Track 1 Defendants	37:16-38:17	
Track 1 Defendants	42:12-47:16	<u>Counter Designation:</u> 48:5-10; 49:21-51:12; 70:17-72:16; 126:16-127:10.

78. Greg Yonko, McKesson

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 14, 2004 Transcript: 12:14-16	
Track 1 Defendants	14:4-14	
Track 1 Defendants	18:21-21:14	
Track 1 Defendants	23:3-27:13	
Track 1 Defendants	28:7-22	<u>Counter Designation:</u> 29:1-4, 32:5-33:2, 33:18-35:8, 65:18-66:19.
Track 1 Defendants	76:7-77:8	<u>Objection:</u> FRE 602 – lack of personal knowledge. Admits not knowing how FDB generates AWP. <u>Counter Designation:</u> 76:1-6.
Track 1 Defendants	96:16-97:9	<u>Objection:</u> FRE 402 – Irrelevant as testimony concerns document not in evidence.
Track 1 Defendants	138:14-21	<u>Objection:</u> FRE 402 – Irrelevant. Vague as to Defendant, time and product and manner of shipment not an issue.
Track 1 Defendants	139:20-141:2	<u>Objection:</u> FRE 402 – Irrelevant as testimony is vague as to time, Defendant, and product.
Track 1 Defendants	143:21-144:10	<u>Objection:</u> FRE 402 – Irrelevant. Vague as to time, Defendant, and product.

79. Kimbir L. Tate, McKesson

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 15, 2004 Transcript: 7:4-6	
Track 1 Defendants	8:3-8	
Track 1 Defendants	21:9-24:7	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	26:16-27:2	
Track 1 Defendants	28:18-30:2	<u>Counter Designation:</u> 32:1-15
Track 1 Defendants	38:8-20	
Track 1 Defendants	45:3-19	<u>Counter Designation:</u> 46:7-20; 49:21-50:11

80. Ken Arruda, Blue Cross Blue Shield of Massachusetts

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 4, 2006 Transcript: 8:1-10	
Track 1 Defendants	9:6-11:6	
Track 1 Defendants	13:2-9	
Track 1 Defendants	15:16-16:7	<u>Objection:</u> Relevance, FRE 401. Lack of Foundation. <u>Counter Designation:</u> 17:1-19; 19:17-20:10
Track 1 Defendants	17:20-18:1	<u>Objection:</u> Relevance, FRE 401. <u>Counter Designation:</u> 17:1-19; 19:17-20:10
Track 1 Defendants	24:7-28:22	<u>Objection:</u> Relevance, FRE 401 (24:7-28:22)
Track 1 Defendants	29:21-33:18	<u>Objection:</u> Relevance, FRE 401 (34:4-38:4).
Track 1 Defendants	34:4-38:4	<u>Objection:</u> Relevance, FRE 401 (34:4-38:4). <u>Counter Designation:</u> 41:17- 43:5
Track 1 Defendants	39:7-41:16	
Track 1 Defendants	44:13-48:10	<u>Objection:</u> Relevance, FRE 401 (44:13-48:10).
Track 1 Defendants	54:3-57:7	<u>Objection:</u> Relevance, FRE 401 (54:3-57:7).
Track 1 Defendants	57:14-58:21	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	60:14-69:18	<u>Objection</u> : Relevance, FRE 401. Vague and Ambiguous (62:22-63:9). Mischaracterizes Testimony, Vague and Ambiguous (66:6-14; 67:1-11).
Track 1 Defendants	70:10-80:10	<u>Objection</u> : Relevance, FRE 401 (70:10-80:10).
Track 1 Defendants	81:3-93:22	<u>Objection</u> : Relevance, FRE 401. Vague and Ambiguous (87:1-5; 87:8-13). Missing Answer (87:15-17). Lack of Foundation, Vague and Ambiguous (88:20-89:2; 89:4-10).
Track 1 Defendants	103:5-104:19	<u>Objection</u> : Lack of Foundation, Vague and Ambiguous (103:5-12; 104:5-14).
Track 1 Defendants	105:13-106:4	<u>Counter Designation</u> : 95:5-96:12; 98:20-102:4; 186:18-189:5
Track 1 Defendants	107:16-109:6	<u>Objection</u> : Relevance, FRE 401. Lack of Foundation, Vague and Ambiguous (108:9-109:6).
Track 1 Defendants	111:20-114:6	<u>Counter Designation</u> : 116:3-117:6
Track 1 Defendants	122:8-124:7	<u>Objection</u> : Relevance, FRE 401. <u>Counter Designation</u> : 186:18-189:5
Track 1 Defendants	126:2-149:11	<u>Objection</u> : Relevance, FRE 401.
Track 1 Defendants	152:20-153:14	
Track 1 Defendants	155:12-171:13	<u>Objection</u> : Relevance, FRE 401.
Track 1 Defendants	175:3-22	<u>Objection</u> : Relevance, FRE 401.
Track 1 Defendants	180:19-181:7	<u>Objection</u> : Compound Question, Vague and Ambiguous (180:19-181:7).

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	182:17-186:13	<u>Objection:</u> Vague and Ambiguous (185:16-186:1; 186:2-13).

81. Lee Newcomber, United Healthcare

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	October 18, 2006 Transcript: 8:3-12	
Track 1 Defendants	11:17-18:1	
Track 1 Defendants	19:15-20:3	
Track 1 Defendants	22:6-23:1	
Track 1 Defendants	28:13-32:2	
Track 1 Defendants	34:22-35:5	
Track 1 Defendants	35:14-36:1	
Track 1 Defendants	37:13-39:9	
Track 1 Defendants	41:19-42:7	
Track 1 Defendants	45:2-12	
Track 1 Defendants	46:9-47:7	
Track 1 Defendants	49:4-11	
Track 1 Defendants	49:20-51:12	
Track 1 Defendants	57:16-58:4	
Track 1 Defendants	60:2-12	
Track 1 Defendants	62:22-64:3	
Track 1 Defendants	64:18-65:9	
Track 1 Defendants	67:7-68:16	
Track 1 Defendants	74:7-22	
Track 1 Defendants	75:9-14	
Track 1 Defendants	80:2-81:1	
Track 1 Defendants	81:16-82:3	
Track 1 Defendants	85:14-86:13	
Track 1 Defendants	91:14-94:9	
Track 1 Defendants	113:2-22	
Track 1 Defendants	117:10-14	

Offering Party	Designation Range	Objection/Counter Designation
Track 1 Defendants	119:17-120:2	
Track 1 Defendants	122:6-123:12	
Track 1 Defendants	126:22-128:1	
Track 1 Defendants	128:20-129:12	
Track 1 Defendants	130:12-132:7	
Track 1 Defendants	134:11-139:13	
Track 1 Defendants	145:7-146:1	
Track 1 Defendants	148:8-149:1	
Track 1 Defendants	149:9-21	
Track 1 Defendants	150:20-151:13	
Track 1 Defendants	161:21-162:9	
Track 1 Defendants	163:16-164:13	
Track 1 Defendants	171:19-174:15	
Track 1 Defendants	175:6-19	
Track 1 Defendants	176:4 - 178:13	
Track 1 Defendants	179:19-185:8	
Track 1 Defendants	185:21-186:5	
Track 1 Defendants	193:17-194:13	
Track 1 Defendants	195:15-197:22	
Track 1 Defendants	198:11-204:11	
Track 1 Defendants	210:7-18	
Track 1 Defendants	222:21-225:22	
Track 1 Defendants	229:4-14	
Track 1 Defendants	233:5-234:21	
Track 1 Defendants	241:19-243:16	
Track 1 Defendants	271:8-273:1	
Track 1 Defendants	283:10-286:15	
Track 1 Defendants	288:4-290:12	
Track 1 Defendants	298:6-300:4	
Track 1 Defendants	302:14-304:22	
Track 1 Defendants	339:6-18	
Track 1 Defendants	347:20-349:11	
Track 1 Defendants	351:6-15	

DATED: October 24, 2006.

Respectfully submitted,

By /s/ Steve W. Berman

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on October 24, 2006, I caused copies of **PLAINTIFFS' OBJECTIONS AND COUNTER DESIGNATIONS TO TRACK 1 DEFENDANTS' JOINT AMENDED OFFERING DEPOSITION DESIGNATIONS** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve and hard copy of the highlighted deposition transcripts of plaintiffs' counter-designations to be served by overnight mail to the following Defendants:

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